

GENE DANA SHERIFF
KITTITAS COUNTY SHERIFF'S OFFICE
205 W. 5TH ELLENSBURG, WA 98926
509-962-7527 - 509-674-2584
FAX: 509-962-7037

AUTHORIZATION TO BOOK ON PROBABLE CAUSE BOOKING FELONY CHARGE ONLY
PLEASE PRINT OR TYPE

ADMIN BOOK AND RELEASE ONLY <input type="checkbox"/> (CHECK BOX IF THIS APPLIES)	ARRESTING OFFICER BADGE NUMBER: <u>582</u> (MUST HAVE BADGE NUMBER IF ADMIN BOOK AND RELEASE)
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ARREST INFORMATION

DATE ARRESTED <u>08-27-2018</u>	TIME ARRESTED <u>1355hrs</u>	LOCATION ARRESTED <u>SR 970 mp 2 Kittitas</u>
ARRESTING OFFICER NAME <u>BRETT LOWELL</u>	PERSONNEL # <u>582</u>	AGENCY <u>WSP</u>

SUBJECT INFORMATION

LAST NAME <u>COHEN</u>	FIRST NAME <u>DAVID</u>	MIDDLE NAME <u>JEREMY</u>	DATE OF BIRTH <u>03-11-1967</u>
HOME ADDRESS <u>620 N 34th ST APT 613</u>	CITY <u>SEATTLE</u>	STATE <u>WA</u>	ZIP CODE <u>98103</u>
KCSO ID NUMBER	DATE RECEIVED	TIME RECEIVED	BOOKING OFFICER

CHARGE AND COURT INFORMATION (WRITE ADDITIONAL CHARGES ON REVERSE OR ATTACH A SECOND SHEET)

CHARGE #1 <u>VEHICLE</u> <u>V-HOMICIDE</u>	RCW NUMBER <u>46.61.520</u>	COURT <u>Superior</u>
CHARGE #2 <u>VEHICLE</u> <u>V-ASSAULT</u> (<u>3 counts</u>)	RCW NUMBER <u>46.61.525</u>	COURT <u>Superior</u>
CHARGE #3	RCW NUMBER	COURT

REQUIRED ARREST DISPOSITION INFORMATION

SIGNATURE OF ARRESTING OFFICER: <u>For /s/ BRETT LOWELL 582</u>	RECEIVING CORRECTIONS OFFICER SIGNATURE:
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REPORT OF INVESTIGATION Primary Officer's Narrative

Case #
18-023055
Citation #
N/A

Officer's Name: Brett Lovell Badge No.: 582

Video file name (if applicable): 15245@20180827132101

Video viewed by officer for this report: ☒ YES ☐ NO

Type of Investigation	Date
Vehicular Homicide and Three counts of Vehicular Assault	08-27-2018
Location	Time
State Route 970 near Mile Post 2	1316

(S)uspects / (W)itnesses / (V)ictims / (O)ther*					
<input checked="" type="checkbox"/> S	Name Cohen, David Jeremy		DOB 03-11-1967		Misc
<input type="checkbox"/> W	Address 620 North 34 th Street Apt 613		Race White		Sex Male
<input type="checkbox"/> V	City Seattle	State WA	ZIP 98103	Height 6-0	Weight 230
<input type="checkbox"/> O	Home Phone ()	Alternate Phone ()		Eyes Hazel	Hair Brown
	License/St Code 1(c) WA		Expiration 03-11-2023		
<input type="checkbox"/> S	Name		DOB		Misc
<input type="checkbox"/> W	Address		Race		Sex
<input type="checkbox"/> V	City	State	ZIP	Height	Weight
<input type="checkbox"/> O	Home Phone ()	Alternate Phone ()		Eyes	Hair
	License/St		Expiration		
<input type="checkbox"/> S	Name		DOB		Misc
<input type="checkbox"/> W	Address		Race		Sex
<input type="checkbox"/> V	City	State	ZIP	Height	Weight
<input type="checkbox"/> O	Home Phone ()	Alternate Phone ()		Eyes	Hair
	License/St		Expiration		

Vehicle Information*							
Vehicle 1	License Hurrah	State WA	Color Green	Year 2001	Make Mazda	Model Tribute	Style Utility
	Registered Owner Cohen, David J.			Comments Impound for Evidence to Bullpen			
Vehicle 2	License	State	Color	Year	Make	Model	Style
	Registered Owner			Comments			
Vehicle 3	License	State	Color	Year	Make	Model	Style
	Registered Owner			Comments			

*Use the "Additional Persons and/or Vehicles" ROI, if applicable.



REPORT OF INVESTIGATION Primary Officer's Narrative

Case #
18-023055
Citation #
N/A

Officer's Name: Brett Lovell

Badge No.: 582

On 08-27-2018, I responded to a multi vehicle, multi injury collision eastbound State Route 970 near Mile Post 2. I signed en route at approximately 1317 hours and arrived at approximately 1333 hours. I also responded to this collision as a certified drug recognition expert. When I arrived there were numerous fire trucks, aid cars and civilian vehicles at the scene. I observed a utility vehicle lying on its top in the westbound ditch. There was a small black truck on all four tires parked directly next to it. The contents of the utility vehicle were scattered throughout the scene. Trooper Seim had arrived at the scene before I did. I exited my patrol vehicle and Trooper Seim contacted me. He advised one passenger was confirmed deceased and handed me the male driver's information of the utility vehicle on its top. The male driver was identified as David Jeremy Cohen with a date of birth of 03-11-1967. I observed multiple people on the ground with aid workers surrounding them providing medical assistance. I observed a white sheet over one body. I contacted the fire chief and he said they currently had one confirmed death. Three other patients were critical and the male driver was bruised but alert and walking. I began contacting witnesses throughout the scene and gathering their information so they could be contacted later.

After talking with numerous witnesses they all had a very similar story. They said the vehicle was traveling eastbound on State Route 970 near mile post 2. They said the vehicle merged left into the oncoming lanes of traffic like he was going to pass the vehicle in front of him. The witnesses said he just kind of paced the vehicle and was not accelerating to get around it. There was now oncoming traffic approaching. As the oncoming traffic got closer the vehicle suddenly swerved to the left entering the roadway ditch on the north side of the roadway. The vehicle began to slide and then rolled multiple times. The witnesses said multiple people were ejected from the utility vehicle. While I was contacting witnesses Trooper Ferrell (847) and Sergeant Olson (106) had arrived on scene. When I was done talking to witnesses Sergeant Olson advised me Trooper Ferrell wanted me to contact him in the rear of the ambulance. I walked back to the ambulance and observed Trooper Ferrell obtaining a blood sample from Cohen with the assistance of the aid personnel. Cohen refused to be transported by the ambulance for an evaluation at the hospital. Once Trooper Ferrell was done he asked me if I could administer field sobriety tests to the driver since he was now not going to be transported. I told Trooper Ferrell I would.

I contacted Cohen in the back of the aid unit and read him his Miranda warnings from my department issued card. Cohen shook his head up in down indicating he understood when I asked him if he did. I asked Cohen what had happened and he said somebody had passed him on the right shoulder. He said he panicked and pulled to the left. He said there was oncoming traffic so he drove off the shoulder on the left side. I asked Cohen what happened once he got to the left shoulder and he said he didn't know they just rolled over. I asked if he knew how many times and he said no. I asked if he was driving and he said he was. Cohen advised they were all headed to Leavenworth from Seattle. Cohen said they had stopped at the Summit for fuel but that was their only stop. I asked Cohen if he had anything to drink today and he said he had not. I asked if he takes any prescription medication and he said he did. He said there were four different medications that he takes. He said he takes Fluoxetine, Prozac and two other prescriptions. He said he takes two of the prescriptions at night and two in the morning.

I asked if he would be willing to perform some voluntary field sobriety tests and he agreed. We exited the aid unit and met behind it outside. The field sobriety tests were performed on a hard, black asphalt roadway. The defendant was wearing strap on sandals that were properly secured to his feet and ankles. I administered the horizontal gaze nystagmus test and did not observe any nystagmus. Cohen's body was shaking and trembling. I did not observe any lack of convergence at the time. It was hard to clearly see his eyes due to him squinting and his entire body shaking. I administered the walk and turn test next. Cohen used the fog line as a reference to walk in a straight line. Cohen stepped off of the starting position twice during the instruction phase. On the first nine steps down he had to be reminded about his arms multiple times but kept using them to maintain balance. Cohen stepped off line twice on step four with the same foot.



REPORT OF INVESTIGATION Primary Officer's Narrative

Case #
18-023055
Citation #
N/A

When he took his sixth step there was approximately a two inch gap, then he slid his foot back until it hit the other one. Once he got to step nine he stopped and asked me what next. I told him to turn and he took small steps around the front foot turning. On the first step back he used his arms to maintain balance from falling over. When he took his third step there was approximately a two inch gap and he slid his foot back until it hit his other foot. He did the same thing on step five. On step seven he stepped offline which caused step six to come off line and he completely lost balance but quickly corrected and got back online. On the ninth step he left a two inch gap then slid his foot back until it hit his other foot. During the entire test he used his arms to maintain balance. I asked if he was going to be able to balance on one foot for the one leg stand and he quickly pulled his left foot up off the ground and said he thought so. When he pulled up his foot he was using his arms for balance, shaking tremendously and looked like he was extremely off balance. I did not administer the one leg stand based on the poor balance he quickly demonstrated to me on his own. I did not want Cohen to fall and get hurt. I administered the Romberg balance test. Cohen was shaking and had body tremors throughout his body. He estimated the passage of 30 seconds in 30 seconds. During the test his head slowly tilted forward until it was almost upright. At 22 seconds in he quickly tilted his head back to where it was supposed to be. By the time 30 seconds came around he had already brought his head all the way forward again. I completed the tests with Cohen and then returned to talk with Trooper Ferrell. Based on my observations in the field sobriety tests, the witness statements and the obvious evidence at the scene I placed Cohen under arrest for driving under the influence. I transported Cohen to the Washington State Patrol office in Ellensburg to apply for a blood search warrant.

At approximately 1645 hours Kittitas County Superior Court Judge Sparks approved the warrant for blood. I transported Cohen to the Kittitas Valley Hospital where a legal blood draw was performed. Blood was drawn from his left inner arm at approximately 1733 hours. The phlebotomist used Providone Iodine to sanitize the area where the blood draw was conducted. I watched as she filled both of the grey top blood vials that I provided her. Prior to that I had confirmed both files had a valid expiration date and that both blood vials contained white anti-coagulant powder. The Phlebotomist initialed both blood vials then gave them back to me. I secured them and had her sign the proper documents for the blood draw. Just prior to the blood draw hospital staff had Cohen change into a gown they provided As I had entered the room to witness the blood draw the nurse was examining his belly where there was heavy dark bruising horizontally across his lower abdomen and pelvis are. The bruising was consistent with a seatbelt mark based off of my training and experience.

After the blood draw Trooper Swift stood by with Cohen until he was medically cleared by hospital staff. I returned to the Washington State Patrol Office to continue my investigation. Trooper Ferrell, Trooper Schroeder and Sergeant Olson met me back at the office. We all talked about our observations and what we had done to make sure everything was being done properly. Trooper Ferrell and Trooper Schroeder told me the vehicle had a total of five occupants. Four of the occupants were ejected from the vehicle (all juveniles). They said the driver's seat was the only seat with a locked and stretched seatbelt indicating that somebody had been wearing it at the time of the collision. Cohen was the only occupant above the legal age to drive in the vehicle and was the only occupant not ejected during the collision. The vehicle is also registered to Cohen. When I contacted Cohen in the back of the Aid unit he had a giant wad of keys on his persons. Cohen also had a large welt and facial bruising on his left cheek and near his ear. In my experience this is consistent with someone striking their head on the door and window they are closest to during a collision.

At approximately 1654 hours one of the witnesses (Derek Shoaf) emailed me a dash cam video from his vehicle. Shoaf was driving directly behind Cohen. In the video you can see Cohen's vehicle traveling eastbound State Route 970 near mile post 2. The vehicle signals left and the merges into the westbound lane like it is about to overtake the flatbed truck in front of it. Cohen's vehicle slowly begins to speed up as oncoming traffic is rapidly approaching. Once traffic gets close Cohen's vehicle abruptly swerves left entering the roadway ditch to the north. The vehicle travels for a short distance then turns broadside and begins to roll. In the video it is hard to see the vehicle rolling due to the amount of dust in the air. As the vehicle with the dash cam pulls up on scene you observe multiple people getting out of their vehicles to go help the ejected juveniles. Shortly after people start helping you see Cohen crawling out of the vehicle and then he walked over to the juveniles as well.



REPORT OF INVESTIGATION
Primary Officer's Narrative

Case #
18-023055
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N/A

Sergeant Olson provided the names of the juveniles to me. He said it was confirmed that [redacted] 03-08-2005) was the deceased juvenile at the scene [redacted] Code 11(b)

The other three kids were transported to Harborview and their information is listed below with the last medical updates we received as of 08-27-2018:

Code 11(b)

Critical condition/Swollen Brain/Broken Arm


Code 11(b)

Broken Arm/Compound open Femur fracture/facial fractures/ brain bleed-monitoring

Code 11(b)

Skull Fracture/Lacerated Spleen

This is a probable cause statement and full reports from all officers will follow.

<i>I certify (or declare) under penalty of perjury under the laws of the State of Washington that this report is true and correct (RCW 9A.72.085):</i>				
Officer's Signature 	Officer's Printed Name Brett Lovell		Badge # 582	Date Signed 08-27-2018
Place Signed Kittitas County	Reviewed by (Signature)*	Reviewed by (Printed Name)*	Badge #	Date Signed

*Report is valid without review.

WASHINGTON STATE
DUI ARREST REPORT

CASE / CITATION NUMBER

BLOOD DRAWN PURSUANT TO SEARCH WARRANT OR EXIGENT CIRCUMSTANCES

NOTE: READ THIS FORM WHEN THERE ARE EXIGENT CIRCUMSTANCES OR WHEN A SEARCH WARRANT AUTHORIZES THE BLOOD DRAW.

WARNING! YOU ARE UNDER ARREST FOR:

- ☐ RCW 46.61.502 OR RCW 46.61.504: DRIVING OR BEING IN ACTUAL PHYSICAL CONTROL OF A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR AND/OR DRUGS.
- ☐ RCW 46.61.502 OR RCW 46.61.504: FELONY DRIVING OR BEING IN ACTUAL PHYSICAL CONTROL OF A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR AND/OR DRUGS.
- ☐ RCW 46.61.503: BEING UNDER 21 YEARS OF AGE AND DRIVING OR BEING IN ACTUAL PHYSICAL CONTROL OF A MOTOR VEHICLE AFTER CONSUMING ALCOHOL OR MARIJUANA.
- ☐ RCW 46.25.110: DRIVING A COMMERCIAL MOTOR VEHICLE WHILE HAVING ALCOHOL OR THC IN YOUR SYSTEM.
- ☐ RCW 46.61.520: VEHICULAR HOMICIDE
- ☐ RCW 46.61.522: VEHICULAR ASSAULT

A TEST OF YOUR BLOOD WILL BE ADMINISTERED TO DETERMINE THE CONCENTRATION OF ALCOHOL AND/OR ANY DRUG IN YOUR BLOOD.

Name of Person who extracted the blood:

Jacqueline Calderon

Title of Person who extracted the blood:

Phlebotomist

Signature of Person who extracted the blood:

[Signature]

Date: 21 AUG 18 Time of Blood Draw: 1733

Distribution—Original Receipt placed in case file; 1 copy (person from whom the blood was drawn or left with medical staff if person is unavailable); 1 copy (Prosecutor); 1 copy (Officer); 1 copy (person who extracted the blood).

VOLUNTARY BLOOD DRAW CONSENT FORM

I, _____, voluntarily permit officer _____ to obtain a sufficient amount of my blood to test it to determine its alcohol and/or drug content.

I understand that I have the right to refuse to give consent to a voluntary blood draw and that I may require the officer(s) to obtain a search warrant.

I understand that the blood will be extracted by a physician, a registered nurse, a licensed practical nurse, a nursing assistant, a physician assistant, a health care assistant, a first responder, an emergency medical technician, or a technician who is trained in withdrawing blood.

I realize that the blood will be tested to determine blood alcohol level and to detect the presence and/or level of marijuana, or any drug as defined by RCW 46.61.540. I understand that if the test reveals a blood alcohol level and/or the presence and/or level of marijuana, or any drug as defined by RCW 46.61.540, that the blood alcohol level and/or the presence and/or level of marijuana, or any drug, may be used as evidence against me in subsequent legal proceedings.

I understand that I have the right to additional tests administered by a qualified person of my choosing.

If I wish to consult with an attorney before giving consent, reasonable efforts will be made to put me in telephonic contact with a public defender or an attorney of my choice.

My consent has been given knowingly, freely, and voluntarily, without threats of duress against my person or promise of reward.

Officer

Date

Time

Consenter

Date

Time

Name/Title of Person who extracted the blood:

Signature of Person who extracted the blood:

Date: _____ Time of Blood Draw: _____

Distribution—Original Receipt placed in case file; 1 copy (person from whom the blood was drawn or left with medical staff if person is unavailable); 1 copy (Prosecutor); 1 copy (Officer); 1 copy (person who extracted the blood).

STATE OF WASHINGTON
LOWER KITTITAS COUNTY SUPERIOR COURT

STATE OF WASHINGTON,

Plaintiff,

v.

COHEN, DAVID JEREMY,

Defendant.

NO.

SEARCH WARRANT FOR EVIDENCE OF
A CRIME, TO WIT:

- ☐ VEHICULAR HOMICIDE, RCW 46.61.520
- ☐ VEHICULAR ASSAULT, RCW 46.61.522
- ☒ DRIVING WHILE UNDER THE INFLUENCE, RCW 46.61.502
- ☐ DRIVER UNDER TWENTY-ONE CONSUMING ALCOHOL OR MARIJUANA, RCW 46.61.503
- ☐ PHYSICAL CONTROL OF VEHICLE WHILE UNDER THE INFLUENCE, RCW 46.61.504
- ☐ _____

TO ANY PEACE OFFICER IN THE STATE OF WASHINGTON:

WHEREAS, upon the sworn complaint heretofore made and filed and/or the testimonial evidence given in the above-entitled Court and incorporated herein by this reference, it appears to the undersigned Judge of the above-entitled Court that there is probable cause to believe that, evidence of intoxicating liquor, marijuana, or any drug as defined by RCW 46.61.540, in violation of the laws of the State of Washington, evidence of the crime(s) of:

- ☐ Vehicular Homicide, RCW 46.61.520
 - ☐ Reckless Manner
 - ☐ Disregard for the Safety of Others
- no. SM*
NAK Under the Influence of Liquor or Drugs

- ☐ Vehicular Assault, RCW 46.61.522
- ☐ Reckless Manner ☐ Under the Influence of Liquor or Drugs
- ☐ Disregard for the Safety of Others
- ☒ Driving While under the Influence, RCW 46.61.502
- ☐ Physical Control of Vehicle While under the Influence, RCW 46.61.504
- ☐ Driver under Twenty-one Consuming Alcohol or Marijuana, RCW 46.61.503
- ☐ _____

is concealed in, about or upon the person of Cohen, David Jeremy, who is currently in the custody of the law enforcement officer serving this warrant and located within the County of Kittitas.

NOW, THEREFORE, in the name of the State of Washington, you are hereby commanded with the necessary and proper assistance of a person trained and qualified to draw blood pursuant to RCW 46.61.506(5), to extract a sample of blood, consisting of one or more vials, from the person of Cohen, David Jeremy, who is in the custody of Trooper Lovell (WSP). The sample shall be extracted within 2 hours of the issuance of this search warrant. You are further commanded to ensure the safe keeping of the same and to make a return of said warrant within three (3) days; with a particular statement of all the articles seized and the name and title of the person who extracted the sample of blood.

The blood samples seized shall be submitted to the custody of the Washington State Toxicology Laboratory for appropriate forensic testing as determined by the Washington State Toxicology Laboratory to determine whether any intoxicating liquor, marijuana, or any drug as defined in RCW 46.61.540 can be detected and/or quantified.

A copy of said warrant shall be served upon the person from whom the blood is to be extracted and upon the person who extracted the sample of blood together with a receipt for the blood that was extracted.

GIVEN UNDER MY HAND this 27th day of August, 2018.


JUDGE

Scott R. Sparks
Printed or Typed Name of Judge

This warrant was issued by the above judge, pursuant to the procedures authorized by
RCW 10.79.035, CrR 2.3 and CrRLJ 2.3

on

August 27th, 2018, at 1643 (time).

<u>Brett Lovell/wsp/582</u> Printed Name of Peace Officer, Agency, and Personnel Number	<u>Brett Lovell</u> Signature of Peace Officer Authorized to Affix Judge's Signature to Warrant <u>N/A</u>
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Distribution if warrant obtained in person—Original (Court Clerk); 1 copy (Prosecutor); 1 copy (Officer).

Distribution if warrant obtained telephonically—If search warrant was obtained telephonically, this complaint must be read in its entirety to the judge. The judge *should* place the officer under oath prior to the reading. Original (Prosecutor); 1 copy (Officer).

Distribution if warrant obtained by e-mail—If search warrant was obtained by e-mail, this entire complaint must be sent to the judge for the judge to read. A printout of all e-mails related to this warrant must be distributed with the warrant. Original (Prosecutor); 1 copy (Officer).

STATE OF WASHINGTON
LOWER KITTITAS COUNTY SUPERIOR COURT

STATE OF WASHINGTON,

Plaintiff,

v.

COHEN, DAVID JEREMY,

Defendant.

NO.

DECLARATION IN SUPPORT OF SEARCH
WARRANT FOR EVIDENCE OF A CRIME,
TO WIT:

- ☐ VEHICULAR HOMICIDE, RCW 46.61.520
- ☐ VEHICULAR ASSAULT, RCW 46.61.522
- ☒ DRIVING WHILE UNDER THE INFLUENCE, RCW 46.61.502
- ☐ DRIVER UNDER TWENTY-ONE CONSUMING ALCOHOL OR MARIJUANA, RCW 46.61.503
- ☐ PHYSICAL CONTROL OF VEHICLE WHILE UNDER THE INFLUENCE, RCW 46.61.504
- ☐ _____

I, Trooper Brett Lovell, declare under the penalty of perjury under the laws of the State of Washington, that the following is true and correct:

I am a duly appointed, qualified, and acting law enforcement officer for the:

- ☒ Washington State Patrol
- ☐ _____ County Sheriff's Department.
- ☐ _____ Police Department.

I am charged with responsibility for the investigation of criminal activity occurring within Kittitas County, and have probable cause to believe, and do, in fact, believe, that evidence of the crime(s) of:

- ☐ Vehicular Homicide, RCW 46.61.520
 - ☐ Reckless Manner ☐ Under the Influence of Liquor or Drugs
 - ☐ Disregard for the Safety of Others
- ☐ Vehicular Assault, RCW 46.61.522
 - ☐ Reckless Manner ☐ Under the Influence of Liquor or Drugs

- ☐ Disregard for the Safety of Others
- ☒ Driving While under the Influence, RCW 46.61.502
- ☐ Physical Control of Vehicle While under the Influence, RCW 46.61.504
- ☐ Driver under Twenty-one Consuming Alcohol or Marijuana, RCW 46.61.503
- ☐ _____

is concealed in, about or upon the person of Cohen, David Jeremy, who is currently located within the County of Kittitas, my belief being based upon information acquired through personal interviews with witnesses and other law enforcement officers, review of reports and personal observations, said information being as further described herein—

I have served as a law enforcement officer for App. 5 years. My training and experience regarding investigations of the above crime(s) includes the following:

- ☐ Basic Law Enforcement Academy at the Washington Criminal Justice Training Commission
- ☒ Washington State Patrol Basic Academy
- ☒ Standardized Field Sobriety Testing and/or SFST Refresher Training
- ☒ Drug Recognition Expert School
- ☐ Collision Reconstruction Training
- ☒ Advanced Roadside Impaired Driving Enforcement Training

Additional training and experience:

My current assignment with the Washington State Patrol is within the Field Operations Bureau, District 6, and Detachment 6, located in Kittitas Washington. I have been commissioned as a Trooper for approximately 5 years. Your affiant has attended the Washington State Patrol Trooper Basic Training Academy. The training includes DUI detection, collision investigation, traffic enforcement, firearms, defensive tactics, drug interdiction/detection/identification, and other basic law enforcement training. During my career as a Trooper, I have completed multiple investigations related to the above listed crime. I have been trained in the detection of impaired drivers by a 40 hour class in the training academy. This class consisted of the effects of alcohol and drugs when consumed. I have completed 16 hours of Advanced Roadside Impairment Driving Enforcement (ARIDE) training. Through my past training and experience I have learned to recognize signs of alcohol and/or drug impairment to determine whether or not a person's ability to drive a motor vehicle safely is impaired.

I know from past training and experience that most drugs and/or alcohol once ingested will be detected in a person's blood. I am a certified Drug Recognition Expert.

The facts supporting the initial contact with Cohen, David Jeremy are as follows:

On 08-27-2018, I responded to a multi vehicle, multi injury collision eastbound State Route 970 near Mile Post 2. I signed en route at approximately 1317 hours and arrived at approximately 1333 hours. When I arrived there were numerous fire trucks, aid cars and civilian vehicles at the scene. I observed a utility vehicle lying on its top in the westbound ditch. There was a small black truck on all four tires parked directly next to it. The contents of the utility vehicle were scattered throughout the scene. Trooper Seim had arrived at the scene before I did. I exited my patrol vehicle and Trooper Seim contacted me. He advised one passenger was confirmed deceased and handed me the male driver's information of the utility vehicle on its top. The male driver was identified as David Jeremy Cohen with a date of birth of 03-11-1967. I observed multiple people on the ground with aid workers surrounding them providing medical assistance. I observed a white sheet over one body. I contacted the fire chief and he said they currently had one confirmed death. Three other patients were critical and the male driver was bruised but alert and walking. I began contacting witnesses throughout the scene and gathering their information so they could be contacted later.

After talking with numerous witnesses they all had a very similar story. They said the vehicle was traveling eastbound on State Route 970 near mile post 2. They said the vehicle merged left into the oncoming lanes of traffic like he was going to pass the vehicle in front of him. The witnesses said he just kind of paced the vehicle and was not accelerating to get around it. There was now oncoming traffic approaching. As the oncoming traffic got closer the vehicle suddenly swerved to the left entering the roadway ditch on the north side of the roadway. The vehicle began to slide and then rolled multiple times. The witnesses said multiple people were ejected from the utility vehicle. While I was contacting witnesses Trooper Ferrell (847) and Sergeant Olson (106) had arrived on scene. When I was done talking to witnesses Sergeant Olson advised me Trooper Ferrell wanted me to contact him in the rear of the ambulance. I walked back to the ambulance and observed Trooper Ferrell obtaining a blood sample from Cohen with the assistance of the aid personnel. Cohen refused to be transported by the ambulance for an evaluation at the hospital. Once Trooper Ferrell was done he asked me if I could administer field sobriety tests to the driver since he was now not going to be transported. I told Trooper Ferrell I would.

The facts supporting my belief that Cohen, David Jeremy is under the influence of Intoxicating liquor, marijuana, or any drug and/or is affected by intoxicating liquor, marijuana, or any drug are as follows:

I contacted Cohen in the back of the aid unit and read him his Miranda warnings from my department issued card. Cohen shook his head up in down indicating he understood when I asked him if he did. Cohen advised they were all headed to Leavenworth and that he had left the roadway to the left after somebody had passed him on the right. I asked if he would be willing to perform some voluntary field sobriety tests and he agreed. We exited the aid unit and met behind it outside. The field sobriety tests were performed on a hard, black asphalt roadway. The defendant was wearing strap on sandals that were properly secured to his feet and ankles. I administered the horizontal gaze nystagmus test and did not observe any nystagmus. Cohen's body was shaking and trembling. I did not observe any lack of convergence at the time. It was hard to clearly see his eyes due to him squinting and his entire body shaking. I administered the walk and turn test next. Cohen stepped off of the starting position twice. On the first nine steps down he had to be reminded about his arms multiple times but kept using them to maintain balance. Cohen stepped off line twice on step four with the same foot. When he took his sixth step there was approximately a two inch gap then he slid his foot back until it hit the other one. Once he got to step nine he stopped and asked me what next. I told him to turn and he took small steps around the front foot turning. On the first step back he used his arms to maintain balance from falling over. When he took his third step there was approximately a two inch gap and he slid his foot back until it hit his other one. He did the same thing on step five. On step seven he stepped offline which caused step six to come off line and he completely lost balance but quickly corrected and got back online. On the ninth step he left a two inch gap then slid his foot back until it hit his other one. During the entire test he used his arms to maintain balance. I asked if he was going to be able to balance on one foot for the one leg stand and he quickly pulled up his left foot and said he thought so. When he pulled up his foot he was using his arms for balance shaking tremendously and looked like he was extremely off balance. I did not administer the one leg stand based on the poor balance he quickly demonstrated to me on his own. I did not want Cohen to fall and get hurt. I administered the Romberg balance test. Cohen was shaking and had body tremors throughout his body. He estimated the passage of 30 seconds in 30 seconds. During the test his head slowly tilted forward until it was almost upright. At 22 seconds in he quickly tilted his head back to where it was supposed to be. By the time 30 seconds came around he had already brought his head all the way forward again. I completed the tests and talked with Trooper Ferrell. Based on my observations in the field sobriety tests, the witness statements and the obvious evidence at the scene I placed Cohen under arrest for driving under the influence. I transported Cohen to the Washington State Patrol office in Ellensburg to apply for a blood search warrant. At the time of this warrant application the scene is still being investigated and charges have not been determined yet.

The suspect, Cohen, David Jeremy:

☒ is in custody at the Ellensburg State Patrol Office. Treatment, to date, includes:

- ☐ the administration of one or more drugs
- ☐ the administration of intravenous fluids
- ☐ the transfusion of blood

A sample of Cohen, David Jeremy's blood, if extracted within a reasonable period of time after he/she last operated, or was in physical control of, a motor vehicle, may be tested to determine his/her current blood alcohol level and to detect the presence and/or level of marijuana, or any drug as defined by RCW 46.61.540. This search warrant is being requested _____ minutes App.4.5 hours after _____

- ☒ ceased driving a motor vehicle, ☐ was found in physical control of a motor vehicle or
☐ ceased operating a _____.

Therefore, I request authority to cause a sample of blood, consisting of one or more vials, to be extracted from the person of Cohen, David Jeremy by a person qualified to withdraw blood and I request authority to submit that blood sample to be analyzed to determine the blood alcohol level and to detect the presence and/or level of marijuana, or any drug as defined by RCW 46.61.540.

☐ **[CHECK IF SUBMITTING BY ELECTRONIC DEVICE] This declaration was submitted to the issuing judge or magistrate using an electronic device that is owned, issued, or maintained by the below-identified criminal justice agency.**

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge, information and belief.

Signed this 27th day of August, 2018, at

Kittitas County Washington.

Law Enforcement Officer's Signature

Brett Lovell 582

Law Enforcement Officer's Full Name

Brett Lovell

Agency Badge/Serial or Personnel Number

582

Agency Name

Washington State Patrol

SUBSCRIBED AND SWORN to before me this 27th day of August, 2018.

[Signature]
JUDGE

Distribution if warrant obtained in person—Original (Court Clerk); 1 copy (Prosecutor), 1 copy (Officer).

Distribution if warrant obtained telephonically—If search warrant was obtained telephonically, this complaint must be read in its entirety to the judge. The judge *should* place the officer under oath prior to the reading. Original (Prosecutor); 1 copy (Officer).

Distribution if warrant obtained by e-mail—If search warrant was obtained by e-mail, this entire complaint must be sent to the judge for the judge to read. A printout of all e-mails related to this warrant must be distributed with the warrant. Original (Prosecutor); 1 copy (Officer).

Lower Kittitas STATE OF WASHINGTON
COUNTY Superior COURT

STATE OF WASHINGTON,

Plaintiff,

v.

Cohen, David J.,

Defendant.

NO.

RETURN OF SEARCH WARRANT

A sample of blood consisting of 2 vials was extracted from the person of
Cohen, David J. in the County of Kittitas on August 27th,
20 18, at _____ (time) by Jacqueline Calderon, who is employed by
KVH as a

- ☒ technician trained in withdrawing blood ☐ physician
☐ nursing assistant as defined in chapter 18.88A RCW ☐ licensed practical nurse
☐ physician assistant as defined in chapter 18.71A RCW ☐ registered nurse
☐ health care assistant as defined in chapter 18.135 RCW
☐ first responder as defined in chapter 18.73
☐ emergency medical technician as defined in chapter 18.73 RCW

Acknowledged by Person from whom blood was extracted: [Signature]

Date: 8/27/18 Time: 5:30

Acknowledged by Person who extracted the blood: [Signature]

Date: 27 AUG 18 Time: 1733

Distribution—Original filed with Court Clerk within 3 days of service of warrant; 1 copy (Prosecutor), 1 copy (Officer).

Lower Kittitas STATE OF WASHINGTON
COUNTY Superior COURT

STATE OF WASHINGTON,

Plaintiff,

v.

Cohen, David J.

Defendant.

NO.

RECEIPT FOR PROPERTY TAKEN

The following property was taken from the person of Cohen, David J.
pursuant to a Search Warrant having the same cause number:

A sample of blood consisting of 2 vials.

Acknowledged by Person from whom blood was extracted:

Date: 8/27/18 Time: 5:30

Acknowledged by Person who extracted the blood:

Date: 27 AUG 18 Time: 1733

The property may be tested for evidence of the above named crime to include but not be limited to, the blood alcohol level, the presence and/or level of marijuana, or any drug as defined by RCW 46.61.540.

Distribution—Original Receipt left with the person from whom the blood was drawn or left with medical staff if person is unavailable; 1 copy (Court Clerk); 1 copy (Prosecutor); 1 copy (Officer); 1 copy (person who extracted the blood).



REPORT OF INVESTIGATION

Certified Technical Specialist's Narrative

Case #
18-023055
Citation #
N/A

Officer's Name: Trooper C.M. Ferrell Badge No.: 847

Video file name (if applicable): No Video

Video viewed by officer for this report: ☐ YES ☒ NO

SUMMARY

On the afternoon of August 27, 2018, at about 1316 hours, WSP Troopers responded to a two vehicle roll over collision in which four male juveniles were ejected. This collision occurred on State Route 970 near mile marker 2 and predominately involved a green 2001 Mazda Tribute Sport Utility Vehicle.

The Mazda was traveling eastbound on the straight and level section of SR 970 approaching mile marker 2 when it changed lanes from the eastbound lane, crossed the center skip line, and drove eastbound into the westbound lane of travel. The Mazda sped up and was alongside another vehicle while westbound traffic was approaching. Just prior to hitting a westbound vehicle, the Mazda swerved to its left and left the roadway to the north where it tripped and rolled. Just prior to coming to rest, the Mazda hit a Toyota pickup truck which was stopped in a driveway on the north side of the state route.

The Mazda was occupied by a total of five males. There was a restrained adult driver and four unrestrained juveniles. During this roll over event, all four juveniles were ejected. One of the juveniles was pronounced dead at the scene. The other three were transported to Harborview Medical Center where two more were pronounced dead in the following weeks / months. The final juvenile suffered substantial bodily injuries and will likely have lasting effects from this collision for the rest of his life.

The adult male was able to free himself from the vehicle and refused aid at the scene despite having some bruising on his left cheek bone. This adult was arrested for Vehicular Homicide and Vehicular Assault and, after being medically cleared at Kittitas Valley Healthcare, was booked into the Kittitas County Jail. The vehicle, along with two toxicological samples from the driver, were entered into the WSP Evidence System.

INVESTIGATIVE PROCESS

On the afternoon of August 27, 2018 at about 1317 hours, WSP Communications advised of a roll over collision in which four occupants were ejected from the vehicle. This collision occurred on State Route 970 near mile marker 2. Trooper B. Lovell #582, Trooper E. Seim #885, WSP Sgt. B. Olson #106, and myself responded to the scene. Two Kittitas County Deputies along with a Cle Elum Police Officer also responded and set up traffic control. Washington Department of Transportation was advised and also sent assistance to the scene along with Fire and Aid personnel. Trooper Seim was the first WSP unit to arrive on scene at 1328 hours with the other units arriving within the following minutes.

There were a total of five occupants in the vehicle, all were male, one adult and four children of approximately 12 years of age. All four juveniles were unrestrained and had been ejected from the vehicle when it rolled. Three of the juveniles had been transported from the scene prior to my arrival and were en-route Harborview Medical Center. One of the juveniles was deceased at the scene. The adult driver was still on scene and was in the back of an ambulance.



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Officer's Name: Trooper C.M. Ferrell Badge No.: 847

Upon arriving on scene, Sgt. Olson requested I talk with the driver, David J. Cohen. This is due to the fact that I am a Certified Drug Recognition Expert (DRE). I was informed by Sgt. Olson that Mr. Cohen takes medication for depression and bi-polar. Based on the sense of urgency by the aid personnel, my initial contact with and observations of Mr. Cohen, I obtained a voluntary blood sample from him while at the scene in the back of the ambulance. It was then advised that Mr. Cohen was refusing aid and did not want to be transported from the scene. Based on this, I requested Trooper Lovell (who is also a Certified Drug Recognition Expert). I asked for Trooper Lovell to perform some Standardized Field Sobriety Tests (SFST's) with Mr. Cohen to confirm or deny impairment. I turned Mr. Cohen over to Trooper Lovell so that I could get started with my on-scene investigation (as I am also a Collision Technical Specialist / Reconstructionist).

Trooper Lovell determined that Mr. Cohen was impaired and he subsequently placed him under arrest. Trooper Lovell obtained a search warrant for a second toxicological sample, which was obtained and served on Mr. Cohen. Mr. Cohen was eventually booked into the Kittitas County Jail after being cleared by medical staff at Kittitas Valley Healthcare.

***See my Assisting Officer's Report along with Trooper Lovell's Report of Investigation for further information regarding the toxicological samples taken from and the arrest of Mr. Cohen.

After turning Mr. Cohen over to Trooper Lovell, I began my collision investigation by walking through the scene from west to east. Trooper Detective B. Schroeder was requested to respond and arrived at approximately 1436 hours.

Sgt. B. Olson was working on identifying the four juvenile occupants, which was proving to be difficult because none were of driving age and had no photo verification or identification. The injuries to each juvenile was also so severe that identity based on family photos was also not conclusive at the time.

While walking through the scene, I took notice of two distinct tire marks starting in the westbound lane which start the path of the involved Mazda Tribute Sport Utility Vehicle as it swerved to the left and off of the roadway. Two more tire mark were also located, leading up to the location where the Mazda tripped and rolled. Between the tire marks and where the Mazda came to rest were several gouge and impact marks on the dirt / grass surface. The scene was littered with vehicle debris as well as body tissue. Just prior to coming to rest, the Mazda SUV hit the right front of an occupied Toyota Tundra Pickup which was stopped in a driveway. This gravel driveway runs from the north side of SR 970 into a fenced storage yard.

It was on this gravel driveway, to the east of where the vehicles came to rest, that the four juveniles came to rest. The deceased juvenile was still on scene. I walked through this portion of the scene with the driver of the Toyota Pickup who showed me where the other three juveniles came to rest. I marked these areas with paint.

Detective Schroeder began to forensically map the scene by use of the DJI Inspire 1 UAV (Unmanned Aerial Vehicle) to conduct Aerial photography of the roadway and the collision scene. These photographs are then used to make a scale scene diagram.

While Detective Schroeder was mapping the scene, I completed taking photographs of the involved vehicles, the roadway, tire marks, impact marks, and vehicle debris as well as several photographs of bodily debris. I painted / marked the scene to include several of the above listed items and re-photographed the marked scene.

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Officer's Name: Trooper C.M. Ferrell Badge No.: 847

Kittitas County Coroner N. Henderson arrived and took custody of the deceased. Kittitas County Prosecutor Craig Juris arrived to assist with the investigative process as well. It was decided that the Toyota Pickup did not need to be collected as evidence and it was released to the driver.

With the scene painted, photographed, and forensically mapped, the deceased removed from the scene under the direction of the Kittitas County Coroner, and Willette's Towing was in the process of loading up the Mazda SUV, I cleared the scene. Sgt. Olson followed Willette's Towing and the Mazda SUV to the WSP Ellensburg Office where it was secured into the fenced / locked bullpen.

Myself and Trooper Lovell each entered our toxicological samples from Mr. Cohen into the WSP Evidence System. Each vial was individually given separate item labels. The samples were submitted to the Washington State Toxicology Laboratory for analysis. See the evidence section of this report for analysis results.

AMBIENCE

This collision occurred during the early afternoon hours of daylight. When I arrived on scene it was approximately 75 degrees Fahrenheit. There was only a slight breeze out of the northwest. The sky was mostly clear with only sporadic high clouds.

There were no weather related factors involved in this collision.

ROADWAY DESCRIPTION

State Route 970 is a two lane asphalt paved roadway which runs east / west from Interstate 90 (exit 85) at the east end of the city of Cle Elum at one end with the other being just over 10 miles to the east of Cle Elum where SR 970 intersects with SR 97 at what is known as Lauderdale Junction. There is one lane designated for eastbound traffic and one lane designated for westbound. Both the eastbound and westbound lanes of SR 970 were involved in this collision.





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SR 970, at the location of this collision, is straight and level. As such, the eastbound and westbound lanes of travel were separated by a yellow center skip line and a grooved rumble strip. To the outside of each lane is a solid white fog line followed by a narrow paved shoulder. To the south of the paved shoulder (off of the eastbound lane side of the roadway) there is a narrow gravel shoulder followed by grass and then trees. The eastbound shoulder / area was not involved in this collision. To the north of the roadway (off of the westbound lane side), there is a gravel shoulder which dips down slightly from roadway level and then levels out. Further off of this gravel shoulder, there is a wide grass area. There is a dirt embankment rising from this level grass area leading up a chain link fence which runs parallel to SR 970. This chain link fence separates the roadway (DOT property) from a storage facility located at 3851 SR 970 (Steelhead Storage).

At the east end of this collision scene is the driveway / entrance to the storage facility. This driveway is made of gravel material and begins at the northern edge of asphalt of SR 970 and leads north into the storage facility.

The roadway asphalt material was in good repair. All lanes lines, markings, and signs were clearly visible. The grooved rumble strip was in good repair and not worn smooth at this location.

There were no identifiable roadway issues that would have contributed to this collision.

The speed limit for both westbound and eastbound traffic is posted at 55 mph.

WITNESS STATEMENTS

Jasper L. Davis (253) 365-8686 (Per Written Statement)

Mr. Davis was driving 2 or 3 cars behind the involved Mazda. He observed the Mazda change from the eastbound lane to the westbound lane to pass another vehicle. He then observed it swerve off of the road to avoid oncoming traffic. It then rolled 4 to 5 times as multiple passengers flew off it. Mr. Davis observed a man in a grey sweater and shorts (Mr. Cohen) exit the Mazda from the right passenger door (even though the vehicle was now on its top) and that this male was walking around without apparent injury.

Steven R. Mould (661) 733-4166 (Per Written Statement)

Mr. Mould was traveling eastbound on SR 970 and saw the green Mazda move into oncoming traffic as if to pass. Mr. Mould estimated the Mazda to be in the lane for about 1/4 of a mile and made no effort to get back into the right lane as they approached oncoming traffic nor did he observe any brake lights prior to swerving off of the road. The Mazda swerved off of the road to the left at which point it rolled over, ejecting the passengers before coming to a complete stop. Mr. Mould pulled his vehicle off of the road and observed one male in a grey hoodie coming out of the rear seat window of the involved vehicle. Mr. Mould states his passenger attempted to call 911.

Jacob Bower (509) 899-5407 (phone statement 01-01-19 1420)

Mr. Bower was driving his blue 1-ton Chevrolet Pickup westbound on SR 970 as they had just completed a job in the area. Mr. Bower observed the SUV coming towards him and then make a hard 90 degree turn. It drove off of the road and rolled. Mr. Bower called 911. When asked if he contacted anyone at the scene, Mr. Bower advised he just stayed on the phone.



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Todd Miller (509) 251-4402 (Email Statement)

Mr. Miller was traveling west on SR 970 with his wife. Mr. Miller was behind the small white vehicle with Texas license plates. As Mr. Miller approached the accident scene, he saw brake lights in front of him, slowed, and saw debris flying towards them. All of the other traffic stopped quickly as the car from Texas turned to the right, facing north, blocking the westbound lane. Mr. Miller observed this driver grab a black backpack out of the back of his vehicle and run to the scene. Other people were also responding. According to his statement, Mr. Miller felt the scene didn't look real until he observed one of the people who had been ejected move. He observed the driver from the Texas plated vehicle helping one of the injured people along with a dark haired man remove his jacket and place it on the torso and head of another. Mr. Miller's wife had called 911 and was relaying information to the dispatcher. He then heard sirens. Mr. Miller observed that the injured (four total) were being attended to and didn't want to congest the scene any further so he tried to get traffic moving along with consoling people at the scene who were distraught. After giving his information to a trooper at the scene, he cleared.

Derek Shoaf (775) 230-2544

Mr. Shoaf spoke with WSP Detective B. Schroeder. Mr. Shoaf observed both the involved SUV and the semi-truck enter onto SR 970 from I-90. Mr. Shoaf did not recall seeing these vehicles driving while on I-90. As they entered onto SR 970, Mr. Shoaf recalled another vehicle being in between the semi-truck and Mr. Cohen's SUV but that vehicle had pulled over in a wide spot a ways back from where the collision occurred. Mr. Shoaf observed Mr. Cohen's SUV move to the left and into oncoming traffic. Mr. Shoaf thought that the SUV was going to pass the semi-truck but then it just sort of hung out and didn't appear to be accelerating to get around the semi-truck. Mr. Shoaf advised he felt the SUV would have had time to pass the semi-truck if he had kept accelerating. Mr. Shoaf said he could see what was going to happen when the SUV wasn't going to make it around the semi-truck so he started to back off. Mr. Shoaf advised the oncoming cars were nearly at a stop when the SUV swerved off of the roadway.

Mr. Shoaf advised the semi-truck was maintaining speed and was not speeding up when the SUV was in the oncoming lane.

Mr. Shoaf had a dash camera, which he advised comes on when he starts his vehicle and continually records. Mr. Shoaf captured the collision on his dash camera and via a YouTube video, was able to share the footage.

Jennifer Murphy (RN) (206) 612-8756 (Email Statement)

Ms. Murphy was traveling westbound on SR 970 and observed "David" (who was driving the involved Mazda Tribute) in her lane heading at them. Ms. Murphy was driving the burgundy Tahoe (for reference in the dash cam video) and advised there was one vehicle in front of her at the time of the collision.

Ms. Murphy is an RN and advised that after the collision occurred, she exited her vehicle and performed CPR on Code 11(b) spoke briefly with David, and also helped work on Code 11(b)

In her email, she writes that since the collision, she has been in touch with Code 11(b) mother, and an individual named Derek, who had a dash camera in his vehicle as well as assisted with rendering aid.

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Kelly Alumbaugh (509) 424-1049 (Email Statement)

Ms. Alumbaugh was travelling westbound on SR 970 (location and direction off in her statement) with her aunt (Lee Ingram) and her 11 year old son. Ms. Alumbaugh observed a green SUV pull out from behind a white semi-truck in an attempt to pass. Seeing that this SUV was not going make it in time, she pulled onto the shoulder and braked to a stop. She observed the SUV swerve to the left to avoid a head on collision with her. Ms. Alumbaugh observed the car speed past her and roll several times. She advised they got out of their vehicle and her aunt (along with other people) ran to help. Ms. Alumbaugh stayed with her son and called 911. At first, Ms. Alumbaugh observed two bodies but then saw the other two (total of four). She relayed her observations to the 911 operator. She gave her information to a responding Trooper and then left.

Mr. Richard A Prentice (360) 876-1822 (Email Statement)

Mr. Prentice was traveling westbound on SR 970 towards Cle Elum with his wife and daughter when he observed the vehicles in front of him started to brake. He observed a truck on the shoulder at the mini storage with a car spinning airborne down the side of the road. After the vehicle came to rest, Mr. Prentice pulled over and ran up to the scene. He observed four subjects that had been ejected spread across the gravel entry. He looked in the vehicle and did not observe anyone else in the vehicle. Mr. Prentice observed that the driver of the involved pickup was with one subject. This subject was not responsive and had obvious arm and leg trauma with labored breathing. Mr. Prentice asked others to search the area around the scene to look for other subjects. Mr. Prentice then went to the second subject and checked for a pulse and breathing. This subject was alive yet unresponsive with no apparent bleeding concerns. He checked a third subject and determined his injuries were terminal as there was no pulse, no breathing, and there was substantial blood loss. He then moved to a fourth subject and felt there was a pulse and breathing but unresponsive. Mr. Prentice stated he used trauma shears to cut the clothing off of the three subjects to further access injury and to prep them for the paramedics' arrival. He assisted paramedics with moving the patients onto backboards and into the back of aid vehicles. Mr. Prentice then asked for a sheet and covered the deceased. Mr. Prentice advised he did not know of a fifth subject until he observed him in the back of an ambulance.

INVOLVED PARTY

Driver

Cohen, David J. (DOB 03-11-1967) (Driver of the Mazda Tribute Utility) (Booked into Kittitas County Jail)



Mr. Cohen is the 51 year old Caucasian male driving his 2001 Mazda Tribute utility vehicle. At the time of this collision, Mr. Cohen had a clear and valid Washington State Driver's License with a 2023 expiration. Mr. Cohen's license shows no restrictions.

When I first spoke with Mr. Cohen while at the scene of this collision, he advised they were traveling from Seattle up to Leavenworth.

When asked about how the collision occurred, Mr. Cohen advised he was driving in the right lane when all of a sudden he observed out of the corner of his eye, a vehicle attempting to pass him on what he believed to be the right shoulder. Mr. Cohen advised he then turned



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to the left and into oncoming traffic. He advised he drove off of the roadway where his vehicle rolled. Mr. Cohen advised he didn't think he was speeding at the time.

Mr. Cohen admitted to taking several medications, two of which (as I am a certified Drug Recognition Expert), I recognized as Central Nervous System Depressants. While he was being treated by aid, I attempted to perform a voluntary field sobriety test with Mr. Cohen. I attempted to perform the HGN test but was unable to complete it as he could not stay focused on the end of my pen for more than a few seconds. As it was unknown if he was going to get transported from the scene (which Aid Personnel recommended on a precautionary basis), I asked if he would be willing to give a voluntary blood sample, which he agreed to do.

Mr. Cohen refused medical attention and signed the release form. Mr. Cohen was then turned over to Trooper B. Lovell (also a certified Drug Recognition Expert) to further determine if Mr. Cohen was in fact impaired by medication / drug usage. After performing several more SFST's (out of the ambulance), Trooper Lovell determined Mr. Cohen was impaired and he was placed under arrest. Trooper Lovell transported Mr. Cohen from the scene and a second blood draw was performed via a search warrant. After being cleared by hospital staff at Kittitas Valley Healthcare, Mr. Cohen was booked into the Kittitas County Jail.

Both blood samples were entered into the WSP Evidence System and are also being analyzed by the Washington State Toxicology Laboratory. After analysis by the Washington State Toxicology Laboratory, Mr. Cohen's blood was found to contain:

-First blood sample taken via voluntary consent 08-27-2018 at 1404 hours:

- Carboxy THC – 54ng/mL (Cannabis)
- THC – 4.0ng/mL (Cannabis)
- Flouxetine – 0.18mg/L (CNS Depressant)
- Norflouxetine – 0.17mg/L (CNS Depressant)

-Second blood sample taken via a search warrant 08-27-2018 at 1733 hours:

- Carboxy THC – 39ng/mL (Cannabis)
- THC – 2.9ng/mL (Cannabis)
- Flouxetine – 0.20mg/L (CNS Depressant)
- Norflouxetine – 0.20mg/L (CNS Depressant)

***See my assisting officer's report along with Trooper Lovell's report for further details regarding our contact with Mr. Cohen.

OCCUPANT KINEMATICS

Mr. Cohen was driving his Mazda Tribute eastbound on SR 970 approximately 2 miles east of the city of Cle Elum. Mr. Cohen drove his vehicle from the eastbound lane and into the westbound lane, and into the path of oncoming traffic.

Just before hitting a westbound vehicle, Mr. Cohen turned his vehicle hard to its left and drove off of the roadway. During this hard left turn, Mr. Cohen's person would have felt as if it were pushed to his right as the vehicle turned around him. He was restrained in the driver's seat by his seatbelt. As the vehicle left the roadway to the north, it turned back to the right just prior to rolling. During this right turn, Mr. Cohen would have been pushed back to the left inside the vehicle, towards the inside of the driver's door, as the vehicle was starting to yaw in a clockwise



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fashion. The vehicle then tripped and rolled.

Mr. Cohen was the only occupant wearing a safety belt. As such, during this roll over event, he was restrained within the driver's seat. As the vehicle rolled, initially leading with the left side, Mr. Cohen would have felt like he was being pushed towards the left side. As the vehicle rolled, Mr. Cohen would have felt like he was begin pushed towards the leading portion of his vehicle (the parts of the vehicle impacting the ground).

Mr. Cohen's vehicle came to rest in the dirt area to the north of the roadway. The vehicle was on its top facing back to the west.

Mr. Cohen was the only occupant who was wearing his safety belt. As such, Mr. Cohen was the only occupant who was not ejected from the vehicle during this collision. Mr. Cohen refused aid while at the scene. He was later transported to the hospital (to get a booking clearance). Mr. Cohen did have some bruising / a scrape on the left side of his face by his cheek bone.

INVOLVED PARTY

Other

Passenger

Code 11(b) (DOB 03-08-2006) (Rear Passenger in the Mazda Tribute) (Deceased at the scene)

Code 11(b) is the 12 year old Caucasian male front passenger in the Mazda Tribute. **Code 11(b)** is the **Code 11(b)** was not wearing his seatbelt and was ejected from the vehicle during this roll over collision. **Code 11(b)** sustained massive head trauma as a result of this collision and was pronounced dead at the scene.

Code 11(b) (DOB 07-07-2005) (Rear Passenger in the Mazda Tribute) (Transported to Harborview Medical Center)

Code 11(b) is the 13 year old Caucasian male seated in one of the rear seats of the Mazda Tribute. **Code 11(b)** was unrestrained during this roll over collision and was ejected from the vehicle. **Code 11(b)** was transported from the collision scene to Harborview Medical Center with life threatening injuries including injuries to his brain stem. **Code 11(b)** later died at Harborview Medical Center.

Code 11(b) (DOB 09-24-2005) (Rear Passenger in the Mazda Tribute) (Transported to Harborview Medical Center)

Code 11(b) is the 12 year old Caucasian male seated in one of the rear seats of the Mazda Tribute. **Code 11(b)** was unrestrained during this roll over collision and was ejected from the vehicle. **Code 11(b)** was transported from the scene to Harborview Medical Center with life threatening injuries to include internal and brain injuries. **Code 11(b)** later died at Harborview Medical Center.

Code 11(b) (DOB 08-26-2005) (Front Passenger in the Mazda Tribute) (Transported to Harborview Medical Center)

Code 11(b) is the 13 year old Caucasian male seated in one of the rear passenger seats of the Mazda Tribute. **Code 11(b)** was unrestrained during this roll over collision and was ejected from the vehicle. **Code 11(b)** was transported from the scene to Harborview Medical Center with life threatening injuries. These injuries include a broken arm, facial fractures, brain bleed, and an



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open femur fracture.

OCCUPANT KINEMATICS

The kinematics for the unrestrained passengers would have been relatively similar, with the difference being their placement / where they were seated within the vehicle.

As the vehicle turned hard to the left and as it initially left the roadway, all occupants would have been pushed to their right sides and as such, depending on their seat position, would have been pushed into one of the right side doors or into the person / occupant to their right. After leaving the roadway, the vehicle turned back to the right. At this time, the unrestrained occupants would have been forced to their left as the vehicle turned and changed direction around them.

The vehicle then tripped and rolled, leading with the left side.

It is during this roll over event, that all of the unrestrained occupants were ejected from the vehicle. It is difficult to be certain how and through which opening (which side window or sunroof) each occupant was ejected.

All of the passengers from the vehicle were ejected and came to rest relatively close together. All occupants came to rest just to the east of where the vehicle came to rest. As such, it would be likely that all were ejected at a similar time during the roll over event, at a similar angle of departure, with a similar amount of force. It is impossible to tell how each passenger was orientated when they impacted the ground post ejection.

One of the rear passengers, **Code 11(b)** sustained fatal head injuries during this roll over event and based on evidence at the scene, it can be concluded that his head had been caught in between the vehicle and the ground prior to becoming fully ejected.

OCCUPANT INFORMATION

N/A

OCCUPANT KINEMATICS

N/A

SCENE ANALYSIS

This collision occurred during the early afternoon hours on August 27, 2018, at about 1316 hours. This collision occurred eastbound on SR 970 near mile marker 2. The roadway at this location consists of two lanes, one designated for each direction of travel, with a narrow paved shoulder to the outside of each lane followed by dirt / grass. The collision occurred as the vehicle involved Mazda Tribute was driving eastbound in the westbound lane. Just prior to hitting another vehicle head on, it turned to its left and left the roadway to the north where it tripped and rolled. The four unrestrained passengers were ejected.

Walking through the scene from west to east (direction of the Mazda Tribute), There were four

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tire friction marks on the paved asphalt roadway indicating the path of the Mazda as it left the roadway. Two of the tire friction marks start in the westbound lane near the center skip line. Continuing east through the scene, a third tire friction mark begins in the westbound lane near the solid white fog line with a fourth beginning at the north edge of asphalt. These tire marks show the arcing path of the Mazda Tribute as it was turning hard to its left.



All four tire marks continue off of the paved roadway / shoulder into the dirt / gravel. The tire marks turn back to the right and cross over each other. The tire marks end in the dirt at the location where the Mazda tripped and began to roll.

From the area where these tire marks end to where the Mazda came to rest, the scene was littered with debris from the vehicle along with body material and tissue. There were several large impact and gouge marks in the dirt / gravel along this path indicating points of contact between the Mazda and the ground.



There is a gravel drive leading from SR 970 to the north into this storage yard (located at 3851 SR 970). There was a Toyota Tundra pickup pulling out of this storage yard. The Toyota had just started to move towards the westbound lane of SR 970 when the driver observed the Mazda Tribute tumbling towards him. The driver of this Toyota came to a stop, still on the gravel driveway. The right front of the Toyota was struck by the Mazda. The Toyota did not move

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during this impact and was still facing a westerly direction. The Mazda came to rest on its top next to the right front of the Toyota and was facing back to the west.

To the east of where the vehicles came to rest, there was still some more debris from the vehicle along with more human tissue. The four unrestrained passengers from the Mazda were ejected. Three of the four passengers came to rest on the gravel driveway to the storage units. The fourth passenger came to rest on the east edge of the gravel drive near the tall grass.

VEHICLE ANALYSIS

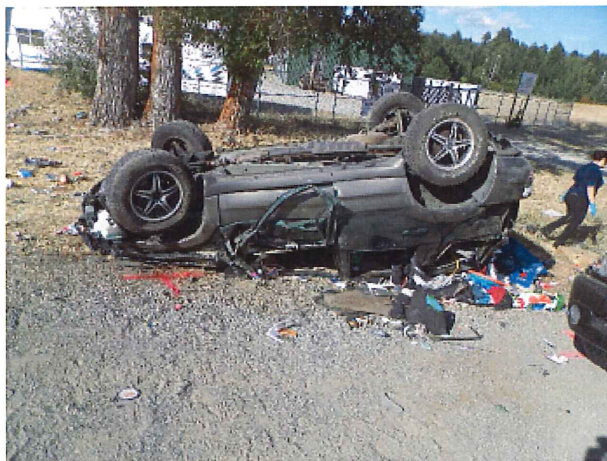
2001 Mazda Tribute Utility Vehicle

This vehicle is a dark green 2001 Mazda Tribute utility vehicle with Washington License: HURRAH. The registered and legal owner of this vehicle is Mr. David J. Cohen, who was driving his vehicle at the time of this collision.

Any damage to this vehicle prior to the collision is unknown.

After rolling, the vehicle came to rest on its top.

The Mazda sustained damage throughout its entirety. The front tires were both pointed outward and were no longer squared or in-line with each other. The front bumper cover was missing as was both headlights. The left front fender had been pushed inward towards the engine compartment. There were scrape marks across the top of the fender and onto the left side of the hood. The right front fender had also been pushed inward towards the engine compartment. The right side of the hood was curled / folded upward as the side was pushed inward. The driver's side A-pillar was relatively still intact. The passenger side A-pillar was pushed back and down. The windshield frame was bent down towards the front of the passenger compartment. The windshield was broken out of the frame, shattered, and torn.



The top of the driver's door window frame was bent down and outward away from the roof. The driver's door skin was also pulled away from the B-pillar where the driver's door meets the left side passenger door. The top of the left passenger door was bent downward and pulled outward away from the door frame. The left passenger door was no longer flush within its frame and bent out and away from the vehicle body at the back of the door. The left rear fender had induced buckling and the left rear window was shattered.

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The back of this vehicle sustained damage throughout its entirety. It looked as if it had been pushed inward in about every direction as all sides were forced inward towards the passenger compartment. The rear window had shattered.

The right front passenger door sustained damage throughout. The top of this door was bent all the way down and back into the door itself. The right rear passenger door also sustained damage throughout although not to the extent of the front passenger door. The window frame of the rear passenger door was also buckled as the top of the vehicle was pushed downward. This door was no longer flush within its frame. The right rear quarter panel had damage throughout and showed severe induced buckling. All right side windows were shattered and broken out.



The top of the vehicle showed both contact and induced buckling as it was pushed inward from both sides and down towards the passenger compartment. The front of the roof was buckled downward to a greater extent than the rear. The sun roof had shattered and was no longer with the vehicle.

The right front, right rear, and left rear seatbelts were still retracted and pulled against their respective door posts thus indicating that they were not being used at the time of this collision. The center rear seatbelt was loose and not buckled. As this passenger was also ejected from the vehicle, it would indicate that the middle rear seatbelt was not being worn at the time of this collision. The driver's seatbelt was loose and pulled away from the door post at a distance / length that would indicate it was being worn at the time of this collision. As the driver was also the only occupant not to be ejected during this roll over collision, this would also show that this was the only safety belt that was actually being worn.

This vehicle was towed to the WSP Ellensburg Office where it was secured and entered into the WSP Evidence System.

2005 Toyota Tundra Pickup

This vehicle is a black 2005 Toyota Tundra pickup with Washington License: B64566V. This vehicle has a registered and legal owner of Mr. Steven R. Brown of Roslyn. Mr. Brown was driving his vehicle at the time of this collision.

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The Toyota pickup sustained contact damage to the right front fender, hood, bumper, and the front of the passenger door (where it meets the right front fender). There was induced damage to the left side of the hood as it was no longer square with the right front headlight.

The rest of the vehicle did not appear to have sustained damage relating to his collision.

This vehicle was driven from the scene by Mr. Brown.

EVIDENCE

Two blood samples were taken from Mr. Cohen as part of this investigation. The first sample was taken while at the scene of this collision, in the back of an ambulance, via Mr. Cohen's voluntary consent. The second blood sample was taken from Mr. Cohen via a search warrant. This second blood sample was drawn at Kittitas Valley Healthcare. Both samples were submitted to the Washington State Toxicology Laboratory for analysis. The results of this analysis are as follows (also see Toxicology Test Report for each sample):

-First blood sample taken via voluntary consent 08-27-2018 at 1404 hours:

- Carboxy THC – 54ng/mL (Cannabis)
- THC – 4.0ng/mL (Cannabis)
- Flouxetine – 0.18mg/L (CNS Depressant)
- Norflouxetine – 0.17mg/L (CNS Depressant)

-Second blood sample taken via a search warrant 08-27-2018 at 1733 hours:

- Carboxy THC – 39ng/mL (Cannabis)
- THC – 2.9ng/mL (Cannabis)
- Flouxetine – 0.20mg/L (CNS Depressant)
- Norflouxetine – 0.20mg/L (CNS Depressant)

SPEED CALCULATIONS

No mathematical speed workup was performed on this collision.

COLLISION

PRE-COLLISION

This collision occurred during the early afternoon hours of August 27, 2018, at approximately 1316 hours on State Route 970 at about mile marker 2. This incident started when the 2001 Mazda Tribute was traveling eastbound on SR 970 and for an unknown reason, changed lanes into the westbound lane and into oncoming traffic.

Mr. David J. Cohen, the driver of the Mazda Tribute, failed to notice oncoming traffic until the last



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minute, when he turned his vehicle hard to the left, narrowly avoiding a head on collision. The Mazda Tribute left the roadway to the north where it tripped and rolled.

COLLISION DYNAMICS

The Mazda Tribute rolled multiple times as it traveled in an easterly direction down the dirt / gravel shoulder to the north of the state route. The Mazda Tribute was occupied by five (the adult driver and four child passengers). The driver was the only occupant which was wearing their safety belt during this collision. The four unrestrained children were ejected from the Mazda Tribute.

There was a Toyota Tundra pickup truck pulling out of the driveway located at 3851 SR 970. The driver of this Toyota Tundra observed the Mazda coming towards him and stopped his truck. The Mazda Tribute hit the right front of the Toyota Pickup.

POST-COLLISION

Post collision, all three of the four children ejected from the Mazda Tribute came to rest on the gravel driveway. The fourth child came to rest on the east edge of the gravel driveway by the grass.

The Toyota Tundra did not move from its impact with the Mazda Tribute and was still facing a westerly direction at the west end of the gravel driveway where it connects with the lanes of SR 970. The Mazda Tribute came to rest on its top, facing west, near the right front of the Toyota Tundra.

One of the children ejected from the Mazda Tribute died at the scene. Two more of the children died later at Harborview Medical Center. The fourth child sustained serious injuries.

The driver of the Mazda Tribute, Mr. Cohen, refused aid while at the scene. He was arrested and after being cleared at Kittitas Valley Healthcare, was booked into the Kittitas County Jail.

The driver of the Toyota Tundra was not injured and drove his vehicle from the scene of this collision.

CONCLUSION

For the purposes of collision investigation, "Strategy" is defined as "actions or precautions concerning driving that are prescribed partially by law or suggested by the road markings and influenced by the driving environment". "Tactics" are defined as "actions or reactions concerning driving that are not prescribed by law which are a response to a hazard, real or perceived."

According to the driver, Mr. David Cohen, their driving strategy was to travel from the Seattle area to Leavenworth. Their route of travel was the use of Interstate 90 east to State Route 970, State Route 97, and then east on U.S. Highway 2 towards Leavenworth.

While still at the scene of the collision, Mr. Cohen advised they were traveling in the eastbound lane of SR 970 when a vehicle was passing him on the right shoulder. He swerved to the left and into oncoming traffic.

There is a video of the collision which contradicts Mr. Cohen's accounts of the collision.



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The driver of the vehicle traveling behind Mr. Cohen had a video of the collision. This video shows Mr. Cohen traveling eastbound on SR 970. Mr. Cohen signaled to the left, crossed the center skip line, and was driving eastbound in the westbound lane. Mr. Cohen's vehicle speeds up and pulls alongside a semi-truck / trailer in what appears to be an attempt to pass. The video shows Mr. Cohen turn his vehicle hard to his left just prior to being struck head on by a westbound vehicle. It appears the oncoming vehicles observed Mr. Cohen driving towards them and started to slow and pull over. The vehicle behind Mr. Cohen was also slowing as they could perceive that Mr. Cohen was not making a safe driving decision.

Mr. Cohen's driving tactic was to turn his vehicle hard to the left to avoid oncoming traffic. In doing so, Mr. Cohen drove his vehicle off of the roadway, where he lost control and crashed.

Mr. Cohen made a series of poor decisions on the day of this collision.

Mr. Cohen admittedly takes several different prescription medications. Per two blood tests, Mr. Cohen was found to have both a prescription CNS Depressant along with THC (Cannabis) in his system at the time of this collision (See Evidence Section for specifics).

Mr. Cohen chose to allow the four underage occupants to travel in his vehicle while being unrestrained. As Mr. Cohen was the driver, the vehicle was registered to him, and he was the sole adult in the vehicle, it was his responsibility to make sure all the underage occupants remained safely wearing their seatbelts. Mr. Cohen failed to make sure the children in the vehicle were properly restrained as is required by Washington Law.

Mr. Cohen, per the video, appeared to be trying to pass a semi-truck / trailer by way of driving into oncoming traffic. Mr. Cohen failed to notice or (by his own statement) realize that he was driving in the wrong lane of travel. Mr. Cohen failed to see or observe the oncoming traffic until just about struck another vehicle head on.

It was at this point, Mr. Cohen chose to turn his vehicle hard to the left and drive off of the roadway. No brake lights are observed from Mr. Cohen's vehicle prior to taking this evasive driving action which further substantiates his lack of attention or awareness to the oncoming traffic.

This collision occurred as a direct result of Mr. Cohen's poor decisions. He chose to drive after taking medication / drugs which can impair a person's ability to operate a motor vehicle. This is further substantiated by inability to observe and his delayed response in reacting to oncoming traffic when he was driving eastbound in the westbound lanes of SR 970 while attempting to make an unsafe pass on a larger vehicle.

As Mr. Cohen's vehicle rolled, all four unrestrained children were ejected. One of the children died at the scene. Two more died at Harborview Medical Center in the following weeks / months. The fourth child has injuries which will likely affect him for the rest of his life. Mr. Cohen, being the only restrained occupant, was able to walk away from this collision with very minor injuries.

This collision and the resulting deaths / injuries as a result there of were preventable.



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<i>I certify (or declare) under penalty of perjury under the laws of the State of Washington that this report is true and correct (RCW 9A.72.085):</i>				
Officer's Signature 	Officer's Printed Name <u>C.M. Ferrell</u>	Location Signed <u>Kittitas Co. WA</u>	Badge # <u>847</u>	Date Signed <u>09/08/19</u>

CID Review				
Case Type: <input checked="" type="checkbox"/> FATAL <input type="checkbox"/> PATROL CAR COLLISION <input checked="" type="checkbox"/> FELONY COLLISION <input type="checkbox"/> OTHER _____		Detective Signature 	Badge # <u>508</u>	Date Signed <u>4/4/2019</u>
FOB Review				
Place Signed	Approved by (Signature)	Approved by (Printed Name)	Badge #	Date Signed

WASHINGTON STATE PATROL
CRIMINAL INVESTIGATION DIVISION
Investigative Summary

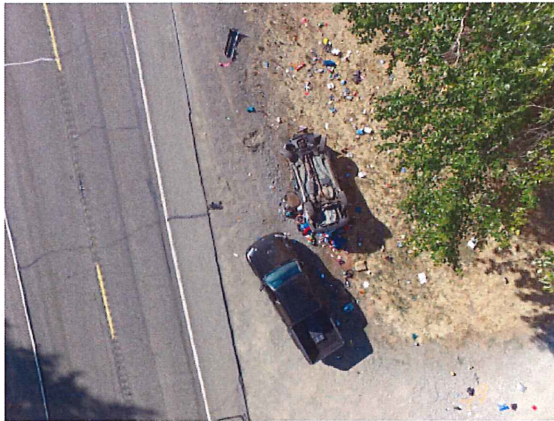


FILE TITLE
Vehicular Homicide
Vehicular Assault
SUBJECTS
David J. Cohen

DETECTIVE
R. Schroeder #D568

CASE NUMBER
18-023055

OTHER CASE NUMBER
N/A



SYNOPSIS

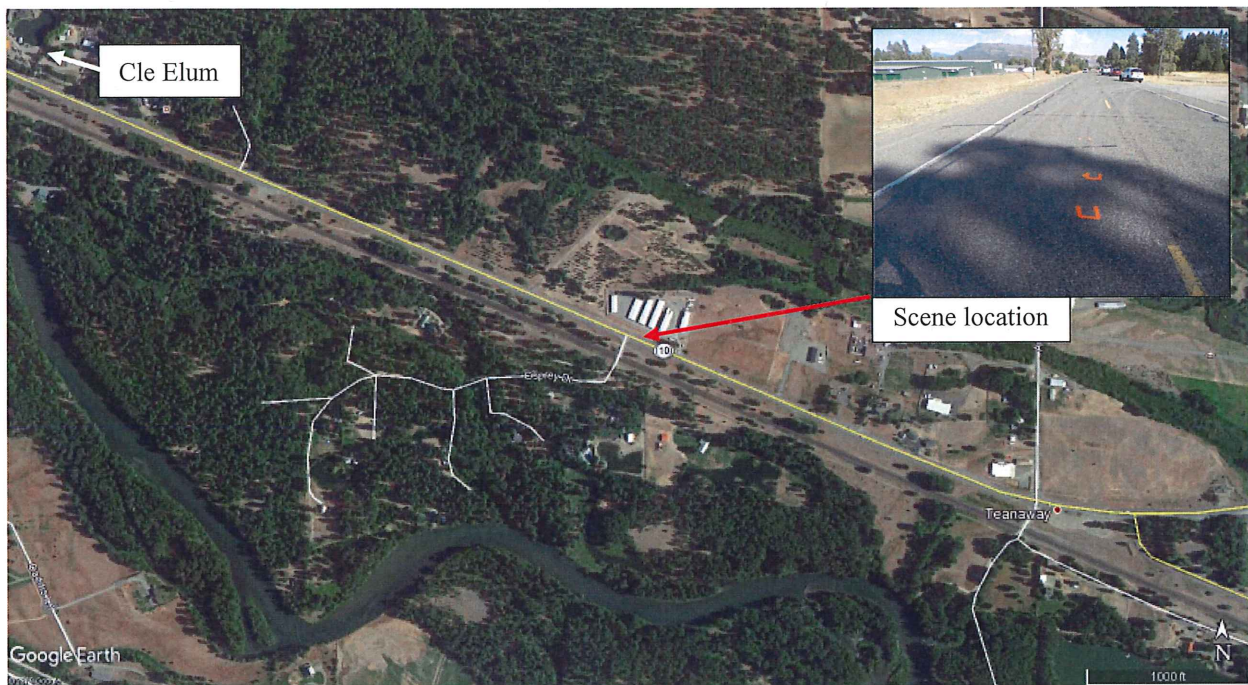
On August 27, 2018 around 1:15 p.m., a rollover fatality collision occurred on State Route 970 near milepost 2, approximately two miles east of the City of Cle Elum, in Kittitas County, WA. David J. Cohen was driving a 2001 Mazda Tribute SUV eastbound on SR 970. He was in a straight section of roadway when he moved out of the eastbound lane into the oncoming westbound lane. In the vehicle with Mr. Cohen was **Code 11(b)**, and three **Code 11(b)** all 12-13 years old. Mr. Cohen was restrained with a lap/shoulder combination seatbelt; all four juveniles were unrestrained. As David Cohen drove eastbound in the westbound lane he swerved off the roadway to the left to avoid oncoming vehicles to his front. The Mazda left the roadway to the left (north) entered the ditch and rolled several times. All four juveniles were ejected as the vehicle rolled. **Code 11(b)** died at the scene. The other three juveniles, later identified as **Code 11(b)** were critically injured and were transported to Harborview Medical Center in Seattle. David Cohen was booked into Kittitas County jail for Vehicular Homicide and Vehicular Assault. **Code 11(b)** later died at the hospital as a result of their injuries.

DETAILS

This crash occurred on SR 970 at milepost 2.06, in front of Steelhead Storage. In the area of the collision, SR 970 is a designated east ~ west two lane asphalt roadway with asphalt shoulders and is maintained by the Washington State Department of Transportation. The east and westbound lanes are separated by a painted yellow centerline in a skip configuration allowing for passing traffic in either direction. The solid outside edge lines are painted white in color. The roadway has approximately 35-feet of pavement width; twelve-foot wide lanes, a six foot wide paved westbound shoulder, and a four and a half foot wide paved

eastbound shoulder. The roadway alignment is straight for approximately 1.5 miles approaching the scene in the eastbound direction and for approximately 0.5 miles approaching the scene in the westbound direction. The road surface was in good condition and was bare and dry at the time. A rumble strip runs along the center of the roadway at the centerline. The westbound pavement edge transitions to a gravel shoulder that slopes downward slightly and away from the roadway forming a shallow ditch. The ditch is approximately 30 feet wide and sits several feet lower than the roadway surface. The ditch was covered with sparse dry grass. Along the north side of the ditch is an embankment approximately 5-6 feet tall that parallels the ditch and roadway.

The demographics of the surrounding area is heavily wooded in a sparsely populated rural environment. The posted speed limit is 55 mph.



SR 970 milepost 1 – Google image

At the time of the collision the sky was partly cloudy with good visibility. The collision occurred during daylight hours. Sunrise was at 6:16 a.m. and sunset was at 7:53 p.m.¹ The approximate temperature was 77° Fahrenheit. The roadway was bare and dry.

Vehicle:

The vehicle involved in this collision was a green 2001 Mazda Tribute Sport Utility Vehicle (SUV) bearing WA personalized license plate HURRAH, and VIN 4F2CU08101KM21298. The vehicle is registered to David J. Cohen at 620 N 34th St #613, Seattle, WA 98103. The Mazda was completely destroyed as a result of the crash. The vehicle had extensive contact damage to its entirety that was consistent with a highway speed rollover collision. The most significant damage was to the passenger



¹ Information obtained from USNO Sun and Moon data

side, roof, and both front and rear corners. Dirt and grass was embedded in the contact damage areas from the rollover. All windows were broken out and the windshield was shattered with the majority of it missing. The vehicle was located on its roof approximately 15 feet from the roadway edge. The front was oriented to the west, opposite the direction it was traveling. Most of the personal belongings and contents from inside the vehicle spilled out and was strewn along the rollover path.

Driver:

The driver was identified as 51-year-old **David J. Cohen**, date of birth March 11, 1967. The address listed on his driver's license was 620 N 34th St Apt #613, Seattle WA 98103. His driver's license (WA OLN **Code 1(c)**) status at the time of the collision indicated clear with no restrictions listed. An abstract of his driving record indicates two traffic violations in Jan 2015 and June 2017.



David Cohen's only visible injury was a small bruise on his left cheek bone. He was checked out by paramedics at the scene and did not require any further medical attention. David Cohen displayed signs of impairment at the scene and admitted to a DRE that he was on four different types of medications including two types of anti-depressants. A DRE evaluation was conducted and a sample of Cohen's blood was seized under search warrant

Passenger(s):

There were four juvenile passengers in David Cohen's vehicle:

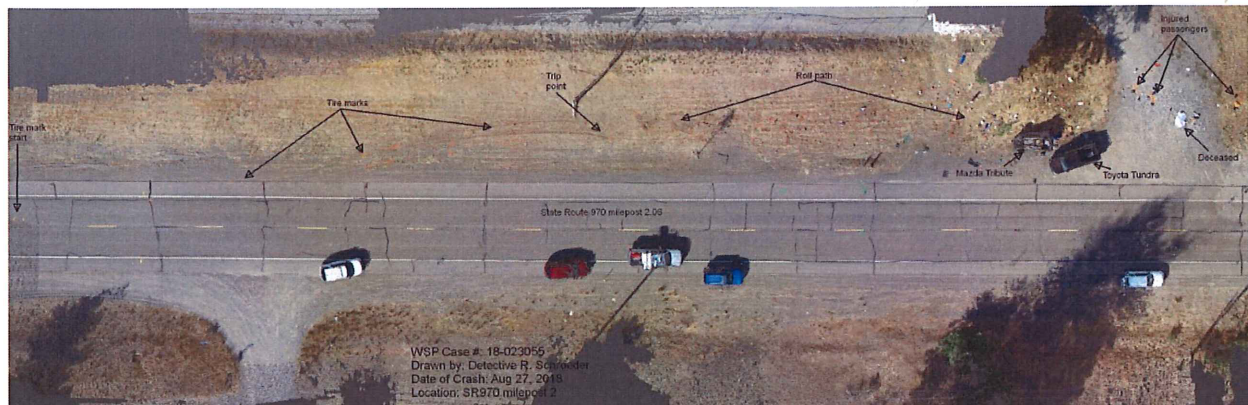
- 12-year-old **Code 11(b)** date of birth 03/08/2006 **Code 11(b)**
- 13-year-old **Code 11(b)** date of birth 07/07/2005
- 12-year-old **Code 11(b)** date of birth 09/24/2005
- 13-year-old **Code 11(b)** date of birth 08/26/2005

Code 11(b) were friends and all four live in the Seattle area. According to **Code 11(b)** father, his son **Code 11(b)** was the last one to be picked up at their residence prior to the trip. He believes **Code 11(b)** **Code 11(b)** was in the front passenger seat and that **Code 11(b)** was seated in the middle rear passenger seat, along with **Code 11(b)**. He was not sure on what side **Code 11(b)** were seated.

Collision Events:

In the early afternoon hours on August 27, 2018, David Cohen drove his Mazda Tribute SUV east on I-90 to Cle Elum, then east on SR 970 toward Wenatchee. He was taking **Code 11(b)** and three of his friends, **Code 11(b)** on a trip from Seattle to Leavenworth, WA. Their route took them east to Cle Elum where they exited I-90 and got on SR 970 heading east toward Wenatchee/Leavenworth. A semi-truck was ahead of Cohen as they headed east on SR 970. After traveling approximately a mile on SR970, Cohen moved to the left into the oncoming (westbound) lane. A motorist traveling directly behind David Cohen had a dash-mounted camera in his vehicle and the events that took place were captured on video. Cohen activated his left turn signal and gradually moved to the left into the oncoming (westbound) lane where he continued traveling eastbound. Initially it appears his speed was approximately the same speed as the semi-truck to his front. Approximately 9 seconds after moving into the southbound lane, Cohen swerved to the left, narrowly avoiding a collision with oncoming traffic. Two oncoming vehicles traveling in the westbound direction swerved to the shoulder in an attempt to avoid Cohen's approaching vehicle. Cohen's vehicle left the roadway in a northeasterly direction and entered the ditch. As Cohen steered back to the right, his vehicle overturned and rolled several times in an easterly direction. The vehicle rolled approximately 150 feet from the point where it tripped to its point of final rest. All four unrestrained juvenile passengers were ejected in an easterly direction from the vehicle as the vehicle rolled. All four came to rest in the driveway of Steelhead Storage, around 30-70 feet beyond (east of) the Mazda.

Prior to the Mazda coming to rest on its top, it struck the right front corner of a Toyota Tundra pickup, driven by Steven Brown, as he was pulling out of Steelhead Storage (refer to the diagram below).



Scene diagram

KITTCOM (Kittitas County Communications Center) and WSP Wenatchee Communications began receiving 911 reports of the collision around 1:16 p.m.² Trooper E. Siem (885) was the first WSP law enforcement unit to arrive on scene. Trooper B. Lovell (582), Drug Recognition Expert (DRE), and Sergeant B. Olson (106) arrived shortly afterward. Fire department and aid units were already on scene along with numerous citizens that had stopped to assist those involved in the collision. Trooper Lovell spoke with numerous witnesses that provided him with preliminary information about the crash. He was provided with the identification of the driver, David J. Cohen, date of birth 03/11/1967. Trooper C. Ferrell (847), a DRE and Collision Technical Specialist (CTS), arrived at the scene a few minutes after Trooper Lovell. Sgt. Olson observed an adult male being led to one of the medic units at the scene. Sgt Olson spoke briefly with the subject who identified himself as David Cohen. When asked who the others were in the vehicle, Cohen told Sgt Olson **Code 11(b)** was seated in the front seat. The other three boys were **Code 11(b)** he did not know their last names. Sgt Olson inquired about parent contact information which Cohan stated he did not have any. When asked what happened, Cohan told Sgt Olson that people were in the turn lane and wouldn't get out of his way, and that he veered off the roadway. Sgt Olson noted that Cohen was very non-emotional and appeared to be very distant and slow. Sgt Olson did not detect any odor of intoxicants and asked Cohen what medications he was taking. Cohen stated Prozac, Levoxitine, Alanzipine (Olanzapine) and another drug for his thyroid. Sgt Olson asked Trooper Ferrell to speak with Cohen and assess him for possibility of impairment.

Cohen was seated in the back of an ambulance when Trooper Ferrell contacted him. Trooper Ferrell noticed Cohen had a bruise on his left cheekbone near his ear. After Trooper Ferrell introduced himself and told Cohen that he had been informed of the medications, Cohen told Trooper Ferrell he takes Levohydroxyl, Stimuloxin, Prozac and Olanzapine. Cohen told Trooper Ferrell he takes medications for his bi-polar disorder. At the same time, aid personnel were trying to talk to Cohen and find out about any injuries he might have. Cohen told aid personnel that he was fine and wanted to know about **Code 11(b)**

Trooper Ferrell asked Cohen about his travel route and about the collision. Cohen stated he was traveling east on SR970 when an unknown car tried to pass him on the right shoulder. Cohen said he turned his car into oncoming traffic, crossed over the road and rolled. Trooper Ferrell attempted to administer a voluntary field sobriety test several times, however Cohen would not stay focused. Trooper Ferrell noted that Cohen's eyes were bloodshot and watery and his speech was slurred and thick-tongued. Cohen's

² Information contained in this case summary was obtained from investigating officers reports and Cad logs

overall movements were rigid and jerky. Trooper Ferrell asked Cohen if he was willing to give a voluntary blood sample, which Cohen agreed to. A voluntary blood draw was conducted at the scene (refer to Trooper Ferrell's report for further details of the voluntary blood draw).

After it was determined that Cohen was not going to be transported to the hospital, Trooper Ferrell asked Trooper Lovell to conduct more field sobriety tests to further determine impairment so Trooper Ferrell could begin his technical collision investigation duties.

Trooper Lovell contacted Cohen in the back of the aid car and read him Miranda warnings which Cohen indicated he understood. When asked what happened, Cohen stated someone had passed him on the right shoulder and that he panicked and pulled to the left. He said there was oncoming traffic so he drove off the shoulder on the left side. When asked about medications, Cohen told Trooper Lovell he takes Fluoxetine, Prozac and two other prescriptions and that he takes two of the prescriptions at night and two in the morning. Cohen agreed to perform some voluntary field sobriety tests which were performed outside the aid car (refer to Trooper Lovell's report for further details). At the completion of the field sobriety tests, Trooper Lovell formed the opinion that Cohen showed signs of impairment. Trooper Lovell placed Cohen under arrest for driving under the influence and transported him to the Ellensburg WSP office to apply for a search warrant for an evidentiary blood draw.

The three severely injured juvenile passengers, **Code 11(b)** (full identities unknown at this point) were transported to Harborview Medical Center in Seattle. Around 2:00 p.m. I, Detective R. Schroeder (D568), received a phone call from Sgt Olson advising me of the crash and the surrounding circumstances. I responded to the scene from the Ellensburg WSP office and arrived at approximately 2:36 p.m. When I arrived, Sgt Olson, Trooper Ferrell and Trooper Siem were at the scene along with several remaining fire department personnel. WA State Department of Transportation (WSDOT) personnel were on scene providing traffic control. A majority of the fire department and aid units that responded to the scene had already cleared. All witnesses and passing motorists that had stopped to assist had already left the scene.

Sgt Olson and Trooper Ferrell provided a scene overview as to what information was known up to that point. The collision involved two vehicles, a Mazda Tribute SUV driven by David Cohen and a Toyota Tundra pickup driven by Steven Brown (lone occupant; not injured). I was informed there were four juvenile passengers in the Mazda and that all four were ejected when the vehicle rolled. The driver, David Cohen, was the only occupant that remained inside the vehicle as it rolled. One juvenile was deceased at the scene and the other three were critically injured. The injured juveniles had been transported from the scene prior to my arrival. The deceased juvenile was still at the scene, covered with a white sheet. Sgt Olson was in the process of attempting to identify the juveniles in order to make notifications to families. I was informed one of the juveniles was the Mazda driver's son and that the driver (David Cohen) only knew the other three by first names.

I walked through the scene with Trooper Ferrell as he pointed out evidence locations that he had marked with orange marking paint. Trooper Ferrell was in the process of photographing and documenting the scene. To forensically map the scene, I deployed the DJI Inspire 1 UAV (Unmanned Aerial Vehicle) to conduct Aerial Photography of the scene and roadway. Kittitas County Coroner N. Henderson contacted the scene and took custody of the deceased juvenile. When the on-scene investigation was completed, the Mazda was towed to the WSP Ellensburg office where it was secured and entered into the WSP evidence system. The Toyota Tundra was released to the owner (Steven Brown) and was driven from the scene.

The aerial photographs captured by the UAV were later downloaded to my office computer. I utilized Pix4D software to process the photos from the aerial photography. The point cloud from Pix4D was

imported into Trimble RealWorks Forensics software to produce a 3D scaled representation of the scene.

Trooper Lovell applied for and was granted a search warrant to seize a sample of Cohen's blood. The search warrant was granted by Kittitas County Superior Court Judge Sparks. Trooper Lovell transported Cohen to Kittitas Valley Healthcare where the blood draw was performed by qualified medical personnel. Trooper Lovell took custody of the blood samples which were placed into the WSP evidence system and submitted to the Washington State Toxicology Laboratory for analysis. While at the hospital for the blood draw, Trooper Lovell observed bruising on Cohen's lower abdomen that he concluded to be consistent with a seatbelt mark. After completion of the evidentiary blood draw and medical clearance by medical personnel, David Cohen was booked into Kittitas County Corrections for investigation of Vehicular Homicide and Vehicular Assault.

The WA State Toxicology Lab analyzed the blood samples obtained from Cohen the day of the collision. The results of the analysis indicate Cohen's blood contained the following at the time the blood samples was obtained:

Voluntary blood sample:

- Carboxy THC – 54ng/mL (Cannabis)
- THC – 4.0ng/mL (Cannabis)
- Flouxetine – 0.18mg/L (CNS Depressant)
- Norflouxetine – 0.17mg/L (CNS Depressant)

Evidentiary blood draw:

- Carboxy THC – 39ng/mL (Cannabis)
- THC – 2.9ng/mL (Cannabis)
- Flouxetine – 0.20mg/L (CNS Depressant)
- Norflouxetine – 0.20mg/L (CNS Depressant)

As a result of the crash, unrestrained juvenile passengers **Code 11(b)** and **Code 11(b)** were ejected from the Mazda and sustained critical injuries. **Code 11(b)** were transported to Harborview Medical Center (HMC) in Seattle due to the seriousness of their injuries.

Code 11(b) died at the scene as a result of his injuries. His cause of death is attributed to crush force trauma of the head and the manner of death is listed as accident (traffic)³.

Code 11(b) remained at HMC until he succumbed to his injuries on October 22, 2018. His cause of death is attributed to multiple blunt force injuries and the preliminary manner of death is listed as accident (traffic)⁴.

Code 11(b) remained at HMC until he succumbed to his injuries on January 12, 2019. His cause of death is attributed to blunt force injuries of the head and the preliminary manner of death is listed as accident (traffic)⁵.

³ Kittitas County Coroner Case 147-2018

⁴ King County Medical Examiner Autopsy Report 18-2112

⁵ King County Medical Examiner Autopsy Report 19-0099

Code 11(b) was transferred from HMC to Seattle Children's Hospital (SCH) for treatment of his multiple injuries. His injuries consisted of a broken arm, open compound left femur fracture, facial laceration and brain bleeding.

Conclusion:

Investigators determined the cause of this collision was directly attributed to David Cohen for his poor decision in driving strategy (failing to maintain control of his vehicle and the operation of a motor vehicle while under the influence of potentially impairing medication/drugs) and his careless actions.


Driving is a divided attention task requiring fine motor skills, intelligent decision making, and rapid and/or appropriate responses. The operator of a motor vehicle must maintain proper lane travel, accurately judge time and distance, and observe and obey all traffic laws. Medication(s) and/or other drugs are likely to manifest those features that are inconsistent with safe driving and contribute to a collision.

This collision resulted from poor decision making and/or driving strategy on the part of David Cohen. Driving strategy can be defined as any action, while the driver is on a trip, which increases the probability of a successful evasive tactic. The most prominent factor in this collision was when Cohen drove his Mazda Tribute east in the westbound lane of SR970 with oncoming traffic rapidly approaching. He failed to maintain control his vehicle after veering sharply off the roadway to the left. This strategy failure placed Cohen on a collision course initially with oncoming traffic, and then with the uneven terrain, an embankment and other objects in the ditch (power pole, signs, fence) on the north side of the roadway. His tactic was to attempt to steer sharply back to the right. Tactics are the actions taken by a driver (steering, braking, accelerating, etc.) to avoid a hazardous situation. In doing so, this maneuver caused him to lose control of his vehicle and the Mazda overturned. The loss of control was attributable to driving while under the influence of medications/drugs. The vehicle rolled several times before striking a Toyota Tundra pickup and coming to rest on its top. David Cohen also showed poor decision making by allowing four juvenile passengers to be unrestrained in the vehicle as they traveled on a high-speed roadway. This failure in proper decision making resulted in all four juveniles being ejected from the vehicle as it rolled.

No evidence was found that would indicate any mechanical aspects of the vehicle, the roadway or environment aspects contributed to this collision.

David Cohen's actions of driving in a careless manner after ingesting prescription medications and/or drugs resulted in a crash that took the lives of 12-year-old **Code 11(b)**, 12-year-old **Code 11(b)**, 13-year-old **Code 11(b)** and seriously injured 13-year-old **Code 11(b)**.

I certify (declare) under penalty of perjury under the laws of Washington that the foregoing is true and correct. (RCW 9A.72.085)


Detective R. Schroeder

#D568
Badge #

Kittitas County, WA.
Location

4/29/2019
Date

Supervisor's Signature /S/ Daniel Richmond Date 4/30/2019



REPORT OF INVESTIGATION Assisting Officer's Narrative

Case #
18-023055
Citation #
N/A

Officer's Name: Ferrell, C.M. Badge No.: 847

Video file name (if applicable): None

Video viewed by officer for this report: ☐ YES ☒ NO

This report is in reference to a fatality collision involving Mr. David J. Cohen (DOB 03-11-1967) which occurred on August 27, 2018, on SR 970 near mile marker 2, in Kittitas County, Washington.

On the afternoon of August 27, 2018 at about 1317 hours, WSP Communications advised of a roll over type collision which occurred on SR 970 near mile marker 2 and that four occupants had been ejected from the vehicle. I signed en-route the scene from the Ellensburg area. I am both certified as Drug Recognition Expert and a Collision Technical Specialist / Reconstructionist.

SR 970 was closed due to the collision. At the request of troopers who arrived on scene before me, I was asked to contact and get any information from witnesses which may be at the west end of the closure. I briefly met with Mr. Tod M. Miller and Mr. Richard A Prentice and obtained their contact information. I then continued to the collision scene. ***See my Technical Specialist Report along with the case file for further witness information and statements.

As I approached the scene, I observed several fire / aid vehicles parked in the roadway along with several patrol vehicles, DOT vehicles, and bystander vehicles parked in the roadway and on the shoulders. I was immediately motioned over by WSP Sgt. B. Olson, who was standing at the back of an aid vehicle. I met with Sgt. Olson who advised the involved driver was in the back of the aid car. Sgt. Olson advised the driver told him they had taken several different medications. This person was identified verbally to be "David" (later identified by his Washington State Driver's License to be David J. Cohen DOB 03-11-1967). I was told by Sgt. Olson that David admitted to him to take several medications and he read to me the medications he was told. Among those medications were Prozac and Olanzapine. Which, as a DRE, I know, are classified as CNS depressants and might impair a person's ability to operate a motor vehicle. I was asked if I could talk with Mr. Cohen.

I first observed Mr. Cohen when he was seated in the back of the aid vehicle. I introduced myself to Mr. Cohen and observed he had a bruise on his left cheekbone area near his ear. I explained that I was a Drug Recognition Expert and that I was told he takes several different medications. Mr. Cohen advised he takes Levoxhydroxin, Stimuastodyn (unable to find any medication with that name), Prozac, and Olanzapine. Mr. Cohen advised he takes medication for his bi-polar disorder.

At this time, aid personnel were also trying to talk with Mr. Cohen about any injuries he may have been suffering from. Mr. Cohen repeatedly told aid personnel that he was fine and wanted to know about **Code 11(b)**

I asked Mr. Cohen about his travel plans, where he was coming from and where he was going. Mr. Cohen advised they were coming from Seattle, where they live, and were headed to Leavenworth. I then spoke with him briefly about the collision. Mr. Cohen advised they were headed eastbound on 970 when an unknown car tried passing him on the right shoulder. Mr. Cohen advised he turned his car into oncoming traffic, crossed over the road, and rolled. When asked, he advised he didn't think he was speeding.

I asked Mr. Cohen if he would be willing to perform a voluntary field sobriety test. I explained it was an eye test and that he could remain seated while we did it. Mr. Cohen stated he would (1353 hours). I attempted to perform this test four times. Each time, Mr. Cohen would not stay focused on the stimulus for more than one pass (basically his attention span was less than 4 seconds) before he would look away from the stimulus, look around the aid car, or just look straight at me.



REPORT OF INVESTIGATION Assisting Officer's Narrative

Case #
18-023055
Citation #
N/A

Officer's Name: Ferrell, C.M.

Badge No.: 847

My other observations of Mr. Cohen included slightly bloodshot and very watery eyes. His speech was slurred and thick tongued. His overall movement were jerky. When he moved his hands / arms to get checked by aid, his movements were rigid and jerky. When he moved his head to look around the aid car, his head movements were also not smooth but jerky. When asked, Mr. Cohen advised he would be willing to give a voluntary blood sample.

Aid was trying to encourage Mr. Cohen to agree to get transported to a hospital to get checked out (based on the type of collision) as they recommended that he get transported on a precautionary basis. To give the utmost time for aid to talk with Mr. Cohen about being transported to the hospital, I asked the paramedic if he would be willing to perform a blood draw for me while at the scene. I was told they could. I requested Trooper B. Lovell, who is also a certified Drug Recognition Expert, contact me at the ambulance.

Trooper Lovell stood by with Mr. Cohen while I returned to my patrol vehicle and obtained a blood vial kit along with a copy of the voluntary blood draw consent form. I returned to the ambulance. I read to Mr. Cohen the Voluntary Blood Draw Consent Form. Mr. Cohen signed his name to the upper portion as well as to the lower portion thus granting consent for the draw. The blood draw was performed by a qualified person (Lee Hadden EMT-IV) in the back of the ambulance while at the scene of this collision. I observed the blood draw and took custody of the vials immediately after. The blood draw was performed from Mr. Cohen's left arm and was sterilized with an iodine prep pad prior to the draw.

Even though aid was recommending to Mr. Cohen that he be transported to the hospital to get further checked out, he refused. Mr. Cohen signed the medical release form for the aid personnel. Seeing that Mr. Cohen was now no longer being treated by aid and that he was not going to be transported, myself and Trooper Lovell were now able to further investigate Mr. Cohen's sobriety.

I explained to Trooper Lovell my interaction with Mr. Cohen so far and informed him that he was not going to be transported by aid after all. Based on this, I asked Trooper Lovell to speak with Mr. Cohen and possibly do some more field sobriety tests to determine further if there was any impairment. I asked that if Trooper Lovell felt that Mr. Cohen was in fact impaired on his medication that he be placed under arrest and a search warrant for another blood sample be obtained.

Mr. Cohen exited the back of the ambulance and I introduced him to Trooper Lovell. I explained to Mr. Cohen that I had to begin my part of investigating the collision and that if I found any information relating **Code 11(b)** I would let him know.

I secured Mr. Cohen's voluntary blood sample vials in by patrol vehicle.

While Trooper Lovell spoke with Mr. Cohen, I walked through the scene to familiarize myself with the events surrounding this collision. I observed two tire marks starting in the westbound lane of SR 970. These marks were inconsistent with Mr. Cohen's recollection of the collision stating he had turned from the eastbound lane when another vehicle was passing him on the right. I followed the tire marks through the scene where the vehicle left the roadway to the north, drove off of the paved roadway surface, tripped, and then rolled. I observed several impact marks and gouges in the dirt leading up to where the vehicle came to rest, which was on its top. One of the young male occupants was deceased and still on scene just to the east of where the vehicle came to rest. The other three young male occupants had previously been transported from the scene. Of the four boys who had been ejected from the vehicle, I was informed that all were approximately 12 years of age. Positively identifying them was made difficult due to both their injuries along with not having issued identification such as State ID Cards or Driver's Licenses which are accompanied by photographs.



REPORT OF INVESTIGATION Assisting Officer's Narrative

Case # 18-023055
Citation # N/A

Officer's Name: Ferrell, C.M. Badge No.: 847

I briefly examined the young deceased male and due to his injury, was unable to find any facial features which I was comfortable making a positive ID of who he was, even though Sgt. Olson had been making phone calls to family to try and get photographs of the involved children.

I returned to Trooper Lovell and to Mr. Cohen. I explained to Mr. Cohen that based on the events I had seen so far for this collision and the lack of positive identification of the deceased, I would never want to tell him information that was not accurate and thus at that time, could not confirm if it was in fact Code 11(b) who had died at the scene. Mr. Cohen nodded his head in a "yes" type manner.

I then spoke with Trooper Lovell who advised that based on his contact with Mr. Cohen and the SFST's, he was going to apply for a search warrant for blood. Trooper Lovell then cleared the scene with Mr. Cohen. I then began my Technical Collision Investigation.

***See my Technical Specialist Report for further collision information.

I later returned to the WSP Ellensburg Office where I entered the two vials of blood from the voluntary on-scene draw into evidence. I requested that the blood samples be analyzed by the Washington State Toxicology Laboratory. The results of this analysis are pending and will be added to this report / file when they are received.

<i>I certify (or declare) under penalty of perjury under the laws of the State of Washington that this report is true and correct (RCW 9A.72.085):</i>				
Officer's Signature 		Officer's Printed Name C.M. Ferrell		Badge # 847
Place Signed Kittitas County		Reviewed by (Signature)* 	Reviewed by (Printed Name)* Robert Schroeder	Date Signed 09-05-2018
			Badge # D568	Date Signed 9/13/2018

*Report is valid without review.



REPORT OF INVESTIGATION Assisting Officer's Narrative

Case # 18-023055
Citation #

Officer's Name: Karl A. Fenster Badge No.: 486


Video file name (if applicable): _____

Video viewed by officer for this report: ☐ YES ☒ NO

On August 27, 2018, I was on patrol in Kittitas County, WA working my assigned shift of 0600 to 1600 hours. I was wearing my full uniform and operating my fully marked patrol vehicle.

Trooper B. Lovell (582) had one subject in custody for a vehicular homicide that occurred on westbound State Route 970 in the area of milepost 2. Trooper Lovell requested that I meet him at the WSP Ellensburg Detachment Office to watch the subject while he wrote a search warrant for blood. The subject was identified as David J. Cohen (DOB 03-11-1967). I met Trooper Lovell at the detachment office and watched Mr. Cohen while Trooper Lovell wrote the search warrant. After Trooper Lovell completed the search warrant, I began following him to the Kittitas Valley Hospital where the warrant would be served. Trooper L. Swift (581) relieved me due to duty hours.

This concludes my involvement in this case.

<i>I certify (or declare) under penalty of perjury under the laws of the State of Washington that this report is true and correct (RCW 9A.72.085):</i>				
Officer's Signature 		Officer's Printed Name Karl A. Fenster		Badge # 486
Date Signed 09-18-2018				
Place Signed Kittitas County	Reviewed by (Signature)*	Reviewed by (Printed Name)*	Badge #	Date Signed

*Report is valid without review.



REPORT OF INVESTIGATION Assisting Officer's Narrative

Case # 18-023055
Citation #

Officer's Name: TROOPER ERIC SEIM Badge No. 885

Video file name (if applicable): NO VIDEO

Video viewed by officer for this report: ☐ YES ☐ NO

On August 27, 2018 at about 1321, I heard other Washington State Patrol Units responding to a collision, but I did not hear the location. I was then advised the collision was on State Route 970 milepost 2, and there were four people ejected. I responded to the scene from I-90 milepost 93. I arrived at 1328. Cle Elum Police Chief Ferguson was providing traffic control with the east bound traffic shut down at milepost 1 on SR 970, west of the collision scene.. I approached the scene from the west. It was dry and clear out with no wind. There were several aid/fire units at the scene and at least two Kittitas County Deputies.

I observed a green 2001 Mazda Tribute with Washington License # HURRAH on its top to the north of SR 970. The vehicle came to rest in the area of the driveway to a storage unit complex. It appeared the Mazda had been traveling eastbound on SR 970 and left the roadway to the left. There was a large amount of debris that had been thrown from the car as it rolled multiple times. Aid was treating several of the patients, and the driver, Cohen, David, J. was walking around the scene. He had some scrapes on his face and was able to walk. Washington State Department of Transportation traffic control personnel advised me they were setting up a detour for traffic around the collision scene. Trooper Lovell arrived at the scene minutes after me. The information on the driver was given to Trooper Lovell. There were multiple vehicles in the area that were trapped due to the road closure.

I searched the collision area for witnesses. I spoke to Mould, Steven R. and his passenger Davis, Jasper, L. They were two or three cars behind the green Mazda traveling eastbound on SR 970 at the time of the collision. They both provided written statements of what they observed of the collision. (See attached statements). I was not able to locate any other witnesses in my area of the collision scene.

<i>I certify (or declare) under penalty of perjury under the laws of the State of Washington that this report is true and correct (RCW 9A.72.085):</i>			
Officer's Signature 	Officer's Printed Name TROOPER ERIC SEIM	Badge # 885	Date Signed 8-28-18
Place Signed KITTITAS COUNTY	Reviewed by (Signature)*	Reviewed by (Printed Name)*	Badge # Date Signed

*Report is valid without review.



REPORT OF INVESTIGATION

Assisting Officer's Narrative

Case #
18-023055
Citation #

Officer's Name: Logan A. Swift Badge No.: 581

Video file name (if applicable): 18-023055

Video viewed by officer for this report: ☐ YES ☒ NO

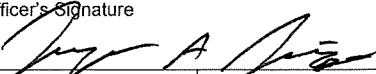

On August 27th, 2018, I signed into service at approximately 1545 hours and was notified by Washington State Patrol Communications that multiple units were at the scene of a fatality collision on SR970 near milepost 2. Trooper Brett Lovell #582 requested I contact him at Kittitas Valley Hospital to assist with obtaining blood from the suspect in the collision.

I arrived at the hospital and contacted Trooper Lovell and the suspect, David J. Cohen. Trooper Lovell informed me that I could assist by being present for the warrant blood draw and medical clearance for officer safety reasons. The blood was obtained and Trooper Lovell returned to the Ellensburg Office with the blood for evidence. I remained at the hospital with the suspect to obtain medical clearance for booking.

While Cohen was getting dressed after a CT scan, his phone rang and he answered. I asked whom he was talking to and he said his ex-wife told him Code 11(b) had died. I told him to turn his phone off and that he could talk to his family later. I asked if I could hold on to his phone and he handed it to me. I overheard Cohen state that he thought he was being passed by another car on the right shoulder prior to the collision.

I took note that Cohen remained emotionless and detached from the gravity of the situation throughout my time with him. I did not have conversation with Cohen as he did not want to speak with me.

I received medical clearance for booking from the hospital and transported Cohen to Kittitas County Corrections where he was booked on one count of Vehicular Homicide and three counts of Vehicular Assault. I had no further involvement in the investigation.

<i>I certify (or declare) under penalty of perjury under the laws of the State of Washington that this report is true and correct (RCW 9A.72.085):</i>				
Officer's Signature 		Officer's Printed Name Logan A. Swift		Badge # 581
Place Signed Kittitas County		Reviewed by (Signature)* 	Reviewed by (Printed Name)* BART OLSON	Date Signed 8-27-18

*Report is valid without review.



REPORT OF INVESTIGATION Assisting Officer's Narrative

Case #
18-023055
Citation #

Officer's Name: Sergeant Bart Olson Badge No.: 106

Video file name (if applicable): N/A

Video viewed by officer for this report: ☐ YES ☒ NO

I am a Sergeant with the Washington State Patrol assigned to Ellensburg, Washington. My assigned area of concern encompasses all of Kittitas County. I have been through the Kittitas County Sheriffs Reserve academy, the Washington State Corrections academy, the Washington State Patrol basic academy. I have been in Law Enforcement for over 26 years, over 23 of which have been with the Washington State Patrol.

On August 27, 2018, at 1316 hours, Ellensburg Trooper Chuck Ferrell advised he had heard fire units being dispatched to a collision on S.R. 970 m.p. 2 with four possibly ejected. I signed enroute from the Ellensburg Detachment office shortly after. At 1336 hours, I heard Trooper Brett Lovell arrive on scene and advise that one victim was confirmed deceased. I arrived on scene at 1338 hours and confirmed with a DOT supervisor at the scene, that they had S.R. 970 shut down in both directions with detours being set up.

I walked the scene over and observed at least three victims on the ground behind the green SUV which had rolled over and another black pickup which had been struck by the rolling over SUV. One victim was covered with a blanket and obviously deceased. The other two patients were being worked on by Medics at the scene and third patient had been loaded into a Medic vehicle and was being worked on. I observed a male adult being led away from the collision scene west toward another Medic vehicle. I was able to talk with him and he identified himself as David Cohen. Cohen told me someone else had taken his license. Cohen was very non-emotional and appeared to be very distant and slow. I asked him who was in the vehicle with him. He told me **Code 11(b)** date of birth 03-08-2005 was seated in the right front seat. He told me the other three boys were **Code 11(b)** and **Code 11(b)** but he did not know their last names. I asked him if he had parent contact information for them, which he did not. I then asked him if he had a picture of his son on his phone or wallet. He fumbled with his wallet and phone and said he did not. Cohen provided me with his ex-wife's name (Jodi Sternhoff-Cohen) and phone number (206) 851-2870 and said she might have information for the other boys in the vehicle. When I asked Cohen what happened, he said people were in the turn lane and wouldn't get out of his way and he veered off the road.

I asked Cohen if he had been drinking alcohol and he stated he had not. I did not smell any intoxicants on him. I then asked him about what medications he had taken. He began to tell me he was taking Prozac, Lorazepam then stated, he wasn't taking Lorazepam and then said he was taking Levoxetine and another drug for his thyroid and then stated he was taking Alanzipine (sp). I suspected he could be under the influence as he seemed very detached, non-emotional, distant and slow. Trooper Chuck Ferrell who is a drug recognition expert arrived on scene and I flagged him over. I requested he speak Cohen and try to assess him for impairment, while I tended to making phone calls. Trooper Ferrell was not able to conduct a thorough assessment on Cohen initially, as he was being treated in the Medic vehicle. Trooper Ferrell obtained voluntary blood, but requested the assistance of Trooper Lovell to conduct SFST's.

I called and requested Detective Bob Schroeder come to the scene and explained to him what we possibly had. Trooper Lovell completed SFST's on David Cohen and determined he appeared to be under the influence. He took Cohen into custody and transported him to the Washington State Patrol office in Ellensburg to apply for a search warrant. I also completed a field diagram.

At 1447 hours, I called and spoke with **Code 11(b)** I informed her of the seriousness of the collision and inquired if she could send me pictures of her son and the names and pictures of the other boys in the vehicle if she knew. At 1453 hours I requested WSP communications advised the coroner. I also called the prosecutor's office to inquire if they wanted to send a felony prosecutor to the scene, which they did. At 1515 hours, I received a text photo from **Code 11(b)** She had described her son's physical description to



REPORT OF INVESTIGATION Assisting Officer's Narrative

Case # 18-023055
Citation #

Officer's Name: Sergeant Bart Olson

Badge No.: 106

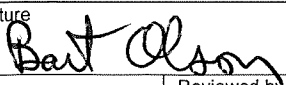
me and told me what he normally would be wearing. I suggested she get some family or friends to be with her as we knew three children were severely injured and one was deceased, but we did not know who was deceased yet. At 1547 hours, I spoke with Harborview Social Worker James Hnida and provided him details and provided him details which **Code 11(b)** had provided me. At 1549 hours, Coroner Nick Henderson arrived as did Deputy Prosecutor Craig Juris. Both of them were advised of the details of the scene. I solicited assistance from Coroner Nick Henderson in identifying the deceased with the picture, sent by **Code 11(b)**. **Code 11(b)** We both came to the consensus that **Code 11(b)** (age 13) was in fact the deceased.

At 1601 hours, I again spoke with **Code 11(b)** and her mother **Code 11(b)**. **Code 11(b)** informed me her two best friends were also at the house with them. I then informed them that **Code 11(b)** was the deceased based upon the physical description given to us, the photo provided by her, the clothing description given to us and the comparison with the deceased. **Code 11(b)** informed me they were Jewish and did not want an autopsy done on **Code 11(b)** and they wanted his body taken to Seattle as he had to be buried within 24 hours. I explained to them about the Coroner protocols and told them I would relay this information to the Coroner and Prosecutor which I did. Trooper Lovell obtained a signed search warrant and obtained David Cohen's blood.

At 1609 hours, Steward and Williams Funeral home arrived on scene and recovered the deceased. At 1630 hours, I requested a tow for impound to the Washington State Patrol bullpen as evidence. At 1744 hours, Willettes Tow had the vehicle and contents loaded up and transported it to the WSP office while I followed. Upon arrival at the office at 1809 hours, Trooper's Lovell, Ferrell and Detective Schroeder entered the vehicle into the bullpen. I cleared and contacted Trooper Logan Swift who was at the Kittitas Valley Hospital with David Cohen for medical clearance for booking. I called and spoke with each mother of the three kids who were at Harborview and gathered all the information we needed and I answered their questions. They all provided me with the extent of injuries as they knew them and all three boys were in critical condition with brain injuries and more. I also spoke with Kittitas County Sheriff Chaplain Bill Hunt and requested he contact David Cohen at corrections to help with the loss of his son, despite the seriousness of the crime he was suspected of committing. I also called the Kittitas County Jail and advised them that Cohen should be placed on suicide watch with his history of depression and loss of his son and injured friends.

At approximately 1926 hours, David Cohen was medically cleared for booking. I followed Trooper Swift to the jail. I took photos of David Cohen and the bruise he had on side of his head. David Cohen was still very unemotional and I found his behavior to be strange. He seemed to be very out of it and impaired based on my training and experience. He told me at the jail that he did not know the boys were not wearing seatbelts. He was booked into jail on one count of Vehicular Homicide and three counts of Vehicular Assault. I returned to the Washington State Patrol office and provided injury updates and names to Trooper Lovell, Trooper Ferrell and Detective Schroeder, which Trooper Lovell documented by typing it out. This ended my immediate involvement.

On August 30th, 2018 at approximately 0922 hours, I spoke with **Code 11(b)** and a friend. Ms. **Code 11(b)** was upset that **Code 11(b)** age was being reported wrong in the papers as 13 years old, when he was only 12 years old. I informed her and a friend of hers that the date of birth I was provided was given to me by David Cohen while at the scene. David provided me **Code 11(b)** date of birth as 03-08-2005 and it should have been 03-08-2006.

<i>I certify (or declare) under penalty of perjury under the laws of the State of Washington that this report is true and correct (RCW 9A.72.085):</i>					
Officer's Signature 		Officer's Printed Name Bart Olson		Badge # 106	Date Signed 9-10-18
Place Signed Ellensburg, WA	Reviewed by (Signature)*		Reviewed by (Printed Name)*		Badge # Date Signed

*Report is valid without review.



Investigative Case Log

Type of Case Vehicular Homicide

Case Number 18-023055

Date	Time	Notes
8-27-18	1316	Advised of rollover collision on S.R. 970 with 4 ejected.
	1336	Trooper Lovell arrived on scene and advised one subject was confirmed deceased.
	1338	I arrived on scene. DOT at the scene and advised they had S.R. 970 shut down on both sides of the collision scene with detours being set up.
		Walked scene over and observed 3 juvenile males being tended to by Medics and all three appeared to be critical. I was told they all were going to be taken to Harborview. I spoke with the causing driver David Cohen. He provided me names of the 4 boys who were ejected. They included his son Code 11(b) and friends Code 11(b) . He did not know their last names or have contact information for them. Cohen seemed very distant and out of it while speaking with him. He was very detached and non-emotional. I questioned him about alcohol and drug usage. He said he had not had any alcoholic beverages, but had taken Prozac or Lorazepam, two medications for his thyroid and Alanzipine (sp). I obtained Cohen's ex-wife Jodi's name and phone number as she might know contact.
		Trooper Ferrell pulled up to the scene and I waived him over to have him look at Cohen as the DRE, which he did so.
	1357	I called and spoke with WSP Detective Dan Richmond who informed that Detective Bob Schroeder was in charge while Sergeant Richmond was on vacation.
	1400	Called Detective Schroeder and requested his assistance at the scene.
	1415	Spoke with Trooper Jeff Anderson regarding the collision and PIO information.
	1447	I called and spoke with Code 11(b) (206) 851-2870. Informed her of the serious collision and the need to gather passenger information for the kids being transported to the hospital.
	1453	Called the prosecutor's office and requested to speak with a felony prosecutor.
	1454	Prosecutor Greg Zempel called me back and I explained the situation to him. He informed me he would be sending a prosecutor to the scene.
	1508	I received a call from Code 11(b) . She also texted me photos of her son and the other possible kids in the vehicle. She provided me a description of her son and what he likely would be wearing.
	1516	Received a call from Prosecutor Crag Juris, who informed me he was responding to the scene from Ellensburg.
	1521	Received a call from Jodi Cohen.
	1526	I received a call from Code 11(b) whose son was one of the involved parties. She provided me her son's name of Code 11(b) date of birth 07-07-2005.
	1533	Spoke with Jodi Cohen.
	1539	Received a call from PIO Andersen regarding detours.
	1550	I called Harborview Hospital Social Worker James Hnida and provided him details as I knew them.



Investigative Case Log

Type of Case Vehicular Homicide

Case Number 18-023055

Date	Time	Notes
	1601	I spoke with Code 11(b) and her mother Code 11(b) (206) 484-2849. I informed them that the deceased was her child Code 11(b) based upon the description she provided me on her son and the photo comparison which myself and the Coroner Nick Henderson completed with the deceased.
	1625	Relayed message to Harborview Social Worker Hnida.
	1630	Spoke with Trooper Lovell who was obtaining a search warrant for blood on Cohen, to inform Lovell that the deceased was the child of the suspect.
	1638	Spoke with Code 11(b) again and was informed her daughter Code 11(b) and friends were going to Harborview. I called to tell Social Worker Hnida.
	1819	Received a call from Code 11(b)
	1843	I called the jail to advise him about Cohen being booked into jail and that Chaplain Bill Hunt would meet with Cohen to discuss his son's death. Also warned the jail that Cohen should be on suicide watch.
	1903	I spoke with Code 11(b) mother of Code 11(b) date of birth 09-24-2005. I was informed by her of her son's status and injuries.
	1910	I spoke with Code 11(b) mother of Code 11(b) date of birth 08-26-2005. I was informed by her of her son's status and injuries. I also spoke with Code 11(b) again, the mother of Code 11(b) and obtained status and injury updates on him.
	2008	I spoke with Chaplain Bill Hunt who was enroute the jail.
		<i>Barb Olson</i>
		<i>8-27-18</i>

Page 2 of 2

Kittitas County Sheriffs Office

Detail Incident Report

Incident Number: S18-09504

Reference Number:

Incident: ACCIDENT-INJURY

Area: KCSO

Observed: Agency Assist

Location: SR 970 MP 2

When Reported: 13:15:37 08/27/18

Occurred Between: 13:15:01 08/27/18

And: 13:15:03 08/27/18

MENTIONED IN REPORT:

Name: Code 11(b)

DOB: **/**/****

Race/Sex: /

Address:

Home Phone: (206)399-8183

Work Phone: () -

Name: Code 11(b)

DOB: **/**/****

Race/Sex: /

Address:

UNKNOWN, WA

Home Phone: (206)282-6076

Work Phone: (206)499-7555

SUSPECTS:

Name: COHEN, DAVID J.

SSN: Code 1(b) DLWA

DL #: Code 1(c)

STATE:

State ID: WA29176186

FBI #: 7F3AW7LNM

DOB: 03/11/1967

Race/Sex: W/M

Height: 6'00"

Weight: 23

Hair: GRY

Eyes: HAZ

0

Address: 620 N 34TH ST APT 613

SEATTLE, WA 98103

Home(206)851-8548

Work() -

Phone:

Phone:

Additional98253 - Sheriff's Office ID Number

Identification:

Contact: Former Wife

Name: COHEN, JODI

Address: SEATTLE

Phone: (206)851-2870

WASHINGTON

SUPPLEMENTAL NARRATIVE:**Name:** BLUME, ANDREA**Date:** 08:57:48 10/09/18KITTITAS COUNTY SHERIFF'S OFFICE
SUPPLEMENTAL REPORT

CASE #: S18-09504

CRIME: Injury Accident

SUSPECT: David Cohen

NARRATIVE:

On August 30, 2018 I assisted the Washington State Patrol with obtaining medical releases from three families at Harborview. The medical releases were for three children that were critically injured in a vehicle collision on August 27, 2018. The children were [Code 11(b)] [Code 11(b)] and [Code 11(b)]. The releases were obtained from their parents and submitted to Harborview records on August 30, 2018. I retained a copy of the medical releases to provide to the Washington State Patrol.

On September 5, 2018, myself and Detective Schroder with the Washington State Patrol collected personal affects of the children that were involved in the collision to include [Code 11(b)] who was killed during the crash. On September 7, 2018 the items were released to the parents of the children. See receipt forms for an itemized list of items returned.

On October 4, 2018 I released the original completed receipt forms along with copies of the medical releases to Detective Schroder.

This completes my involvement in the case.

☐ NON-DISCLOSURE NAME(S):

Distribution:☐ Upper District Court☐ Lower District Court☐ Detectives☐ Prosecutor☒ Case File☒ Other: ___ WSP-Det. Schroder ___

I declare under penalty of perjury, under the laws of the State of

Washington, that the foregoing is true and correct to the best of my knowledge.

Signed at Ellensburg, Washington this 9th day of October 2018.

Deputy Name: Det. Andrea Blume

Badge #: 15

Approval: _____

Distribution:

City Attorney:	<input type="checkbox"/>	City Prosecutor:	<input type="checkbox"/>
Child Protective Services:	<input type="checkbox"/>	Courts:	<input type="checkbox"/> _____
Detectives:	<input type="checkbox"/>	Juvenile Probation:	<input type="checkbox"/>
Juvenile Prosecutor:	<input type="checkbox"/>	Mental Health:	<input type="checkbox"/>
Misdemeanant Probation:	<input type="checkbox"/>	Prosecutor:	<input type="checkbox"/>
7 Day Board:	<input type="checkbox"/>	Student Affairs:	<input type="checkbox"/>
WSP:	<input type="checkbox"/>	Other:	_____